

Article 4

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.

OVERVIEW

1. The first sentence of article 4 lists matters to which the Convention's provisions prevail over those of domestic law, i.e., the formation of contract and the rights and obligations of the parties.¹ The second sentence contains a non-exhaustive list of issues with which, except where expressly provided otherwise, the Convention is not concerned, namely, the validity of the contract or any of its provisions or any usage, as well as the effect which the contract may have on the property in the goods sold. The issues referred to in the second part of article 4 were excluded from the Convention because dealing with them would have delayed the conclusion of the Convention.²

2. Some courts state that the Convention is exhaustive.³ Still, there are matters not governed by the Convention. These matters are to be settled either in conformity with the applicable uniform rules⁴ or the applicable domestic law to be identified on the basis of the rules of private international law of the forum.⁵

ISSUES DEALT WITH BY THE CONVENTION

3. As far as formation of the contract is concerned, the Convention merely governs the objective requirements for concluding the contract.⁶ The issue of whether a contract is validly formed, however, is subject to the applicable national rules, except for those issues as to which the Convention provides exhaustive rules.⁷ Thus, issues such as capacity to contract,⁸ illegality⁹ and the consequences of mistake,¹⁰ duress and fraud¹¹ are left to the applicable domestic law,¹² as are those of misrepresentation¹³ and negligence.¹⁴ Where, however, one party errs concerning the quality of the goods to be delivered or the solvency of the other party, the rules of the otherwise applicable law give way to those of the Convention, since the Convention exhaustively deals with those matters. CISG also covers the plea of non-fulfillment of the contract as a defence to suspend the own performance.¹⁵ (The own performance (?))

4. Although article 4 does not expressly mention the issue as one governed by the Convention, some courts¹⁶ (albeit not all)¹⁷ have concluded that burden of proof questions come within the scope of the Convention.¹⁸ This view is based on the fact that the Convention includes at least one provision, article 79, which expressly deals with the burden of proof.¹⁹

Outside of situations governed by article 79 or any other provision that expressly addresses the issue, the issue is therefore governed by the Convention albeit not expressly settled by it. Thus, article 7 (2) requires the question to be resolved in conformity with the general principles on which the Convention is based.²⁰ The following general principles for allocating the burden of proof have been identified: the party that wants to derive beneficial legal consequences from a legal provision has to prove the existence of the factual prerequisites of the provision;²¹ the party claiming an exception has to prove the factual prerequisites of that exception.²²

5. The foregoing principles have led courts to conclude that the party claiming that a contract is not governed by the Convention pursuant to its article 3 (2) bears the burden of proof.²³

6. The aforementioned general principles have led courts also to state that a buyer who asserts that goods are non-conforming has the burden of proving the non-conformity²⁴ as well as the existence of a proper notice of non-conformity.²⁵ Similarly, various courts have decided that the buyer had to pay the price and was not entitled to damages or to avoidance of the contract for non-conformity of the goods under article 35 because the buyer had not proved the non-conformity.²⁶ In one case, a court decided that the buyer had lost the right to rely upon a non-conformity, because it did not prove that it gave timely notice to the seller.²⁷

7. The aforementioned general principles have been used to allocate the burden of proof under article 42 of the CISG. Article 42 provides that the seller must deliver goods which are free from any third-party right or claim based on industrial property or other intellectual property, of which the seller knew or could not have been unaware. Several courts held that the buyer had the burden of proving that the seller knew or could not have been unaware of the third-party industrial or intellectual property rights.²⁸

8. The Convention's general principles on burden of proof were also the basis of several decisions dealing with issues on damages. One court stated that "according to the Convention the damaged buyer has the burden of proving the objective prerequisites of his claim for damages. Thus, he has to prove the damage, the causal link between the breach of contract and the damage as well as the foreseeability of the loss".²⁹ Other cases have stated more generally that the party claiming damages has to prove the losses suffered.³⁰ It is not clear, however, whether the Convention itself establishes

the degree of evidence necessary to prove the damages or whether that degree is to be derived from the *lex fori*.³¹

VALIDITY OF THE CONTRACT AND OF USAGES

9. Although the Convention generally leaves issues concerning the validity of the contract, defined as “any issue by which the ‘domestic law would render the contract void, voidable, unenforceable’,”³² and of individual contract clauses,³³ such as a disclaimer,³⁴ a liquidated damages clause³⁵ or a non-competition clause³⁶ to the applicable national law,³⁷ in at least one respect the Convention’s provisions may contradict domestic validity rules.³⁸ Article 11 provides that a contract for the international sale of goods need not be concluded in or evidenced by writing and is not subject to any other requirement of form; in some legal systems form requirements for a contract for the sale of goods are considered to be a matter of contractual validity.³⁹ For the question whether domestic law requirements of “consideration” or “causa” are matters of “validity” beyond the scope of the Convention, see paragraph 10 of the Digest for Part II of the Convention.

10. The issue of whether a contract is validly concluded by a third person acting on behalf of one of the parties is left to the applicable national law,⁴⁰ since agency is not governed by the Convention.⁴¹ The same is true for the validity of standard contract terms,⁴² although the issue of whether they become part of the contractual agreement is to be determined pursuant to the rules of the CISG,⁴³ at least according to some courts.⁴⁴

11. The validity of usages—which is not dealt with by the Convention,⁴⁵ but is left to the applicable domestic law⁴⁶—must be distinguished from the question of how usages are defined, under what circumstances they bind the parties, and what their relationship is with the rules set forth in the Convention. The latter issues are dealt with in article 9.⁴⁷

EFFECT ON THE PROPERTY IN THE GOODS SOLD

12. The Convention makes clear that it does not govern the passing of the property in the goods sold.⁴⁸ During the drafting process, it was deemed impossible to unify the rules on this point.⁴⁹ Thus, the effect of a sales contract on the property in the goods is left to the applicable national law, to be determined by the rules of private international law of the forum.

13. The Convention does not govern the validity of a retention of title clause,⁵⁰ nor does it deal with the right of retention.⁵¹

Notes

¹For mere references to the text of article 4 (1) in case law, see U.S. District Court, Eastern District of California, United States, 21 January 2010, available on the Internet at www.cisg.law.pace.edu; Tribunal cantonal du Valais, Switzerland, 28 January 2009, English translation available on the Internet at www.cisg.law.pace.edu; District Court in Nitra, Slovakia, 29 May 2008, English translation available on the Internet at www.cisg.law.pace.edu; U.S. District Court, Southern District of Florida, United States, 19 May 2008, available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 490 [Cour d’appel de Paris, France, 10 September 2003]; CLOUT case No. 241 [Cour de cassation, France, 5 January 1999].

²See Report of the Working Group on the International Sale of Goods on the work of its ninth session (Geneva, 19-30 September 1977) (A/CN.9/142), reproduced in the UNCITRAL Yearbook, 1978, at p. 65, paragraphs 48-51, 66, 69.

OTHER ISSUES NOT DEALT WITH BY THE CONVENTION

14. The Convention itself expressly lists several examples of issues with which it is not concerned.⁵² There are many other issues not governed by the Convention. Courts have identified the following additional issues as beyond the Convention’s scope of application: the legal effect of a deposit;⁵³ the validity of a choice of forum clause,⁵⁴ the validity (and scope) of a penalty clause,⁵⁵ the validity of a settlement agreement,⁵⁶ an assignment of receivables,⁵⁷ assignment of a contract,⁵⁸ set-off⁵⁹ (but differently where the mutual claims all arise from a contract governed by the Convention),⁶⁰ the theory of *imprévision* known in Belgium law,⁶¹ the statute of limitations,⁶² the issue of whether a court has jurisdiction⁶³ and, generally, any other issue of procedural law,⁶⁴ an assumption of debts,⁶⁵ an acknowledgement of debts,⁶⁶ the effects of the contract on third parties⁶⁷ as well as the issue of whether one is jointly liable.⁶⁸ Also the question of whether the buyer as the new owner of an enterprise is liable for the obligations of the seller and former owner does not fall under CISG.⁶⁹ A Supreme Court held that CISG does not cover the question of whether a party is validly authorized to conclude the contract. This issue is determined by the applicable national law.⁷⁰ According to some courts, the Convention does not deal with tort claims;⁷¹ one court expressly stated that a “tortious interference with business expectancy claim is not pre-empted by the CISG”.⁷² That same court held that the Convention pre-empted unjust enrichment⁷³ and restitution claims.⁷⁴ According to a different court, the admissibility of claims based on unjust enrichment is left to the applicable domestic law.⁷⁵

15. Some courts have found that estoppel issues are not governed by the Convention,⁷⁶ but other courts have concluded that estoppel should be regarded as a general principle of the Convention.⁷⁷ A court has also ruled that the question of priority rights in the goods as between the seller and a third party creditor of the buyer is, under article 4, beyond the scope of the Convention and is governed instead by applicable national law, under which the third party creditor prevailed.⁷⁸

16. According to some courts, the issue of the currency of payment is not governed by the Convention and, in the absence of a choice by the parties,⁷⁹ is left to applicable domestic law.⁸⁰ One court found that, absent an agreement of the parties on the matter, the currency of payment is the currency of the place of payment as determined by article 57.⁸¹

17. One court expressly stated that the Convention does not identify the place of conclusion of the contract.⁸²

³Bundesgericht, Switzerland, 15 September 2000, English translation available on the Internet at www.cisg.law.pace.edu.

⁴See CLOUT case No. 202 [Cour d'appel de Grenoble, France, 13 September 1995] (stating that the assignment of receivables is not governed by the Convention and applying the 1988 UNIDROIT Convention on International Factoring as the assignment fell under its sphere of application).

⁵See Tribunal cantonal du Valais, Switzerland, 28 January 2009, English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 97 [Handelsgericht des Kantons Zürich, Switzerland, 9 September 1993].

⁶See CLOUT case No. 95 [Zivilgericht Basel-Stadt, Switzerland, 21 December 1992] (see full text of the decision).

⁷See CLOUT case No. 47 [Landgericht Aachen, Germany, 14 May 1993] (see full text of the decision). See also paragraph 8 of the Digest for Part II of the Convention.

⁸See CLOUT case No. 907 [Tribunal cantonal du Valais, Switzerland, 27 May 2005]; Tribunal of International Commercial Arbitration at the Russian Federation Chamber of Commerce and Industry, Russian Federation, 9 June 2004, English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 985 [China International Economic and Trade Arbitration Commission, People's Republic of China, 2002 (Arbitral award No. CISG/2002/19)]; CLOUT case No. 605 [Oberster Gerichtshof, Austria, 22 October 2001], also available on the Internet at www.cisg.at; CLOUT case No. 5 [Landgericht Hamburg, Germany, 26 September 1990].

⁹See High People's Court of Tianjin Municipality, People's Republic of China, 9 October 2012, (Castronics Precision Metal (Tianjin) Ltd v. Boram Hi-Tek Co. Ltd) (2012) *Jin Gao Min Si Zhong Zi* No. 149 and No. 153 Civil Judgments, available on the Internet at www.ccmt.org.cn and www.ccmt.org.cn.

¹⁰See CLOUT Case No. 1234 [Bundesgerichtshof, Germany, 27 November 2007], English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 877 [Bundesgericht, Switzerland, 22 December 2000]; Bundesgericht, Switzerland, 11 December 2000, English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 426 [Oberster Gerichtshof, Austria, 13 April 2000].

¹¹U.S. District Court, Eastern District of Arkansas, United States, 23 December 2009, available on the Internet at www.cisg.law.pace.edu; U.S. District Court, Southern District of Ohio, United States, 26 March 2009, available on the Internet at www.cisg.law.pace.edu; China International Economic and Trade Arbitration Commission, People's Republic of China, 2005 (Arbitral award No. CISG/2005/03), English translation available on the Internet at www.cisg.law.pace.edu; Quebec Superior Court, District of Montreal, Canada, 29 July 2005, available on the Internet at www.cisg.law.pace.edu; U.S. District Court, Northern District of Alabama, United States, 27 April 2005, available on the Internet at www.cisg.law.pace.edu.

¹²See Schiedsgericht der Handelskammer Zürich, Switzerland, 31 May 1996, Unilex.

¹³U.S. District Court, Eastern District of Arkansas, United States, 23 December 2009, available on the Internet at www.cisg.law.pace.edu; U.S. District Court, Southern District of Ohio, United States, 26 March 2009, available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 579 [U.S. District Court for the Southern District of New York, United States, 10 May 2002].

¹⁴CLOUT case No. 579 [U.S. District Court for the Southern District of New York, United States, 10 May 2002].

¹⁵Bundesgerichtshof, Germany, 21 January 2015, *Internationales Handelsrecht* 2015, 101.

¹⁶See Tribunal cantonal du Valais, Switzerland, 28 January 2009, English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 906 [Kantonsgericht Nidwalden, Switzerland, 23 May 2005], English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 907 [Tribunal cantonal du Valais, Switzerland, 27 May 2005]; CLOUT case No. 894 [Bundesgericht, Switzerland, 7 July 2004]; Appellationshof Bern, Switzerland, 11 February 2004, English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 885 [Kantonsgericht Schaffhausen, Switzerland, 13 November 2003]; Bundesgerichtshof, Germany, 9 January 2002, English translation available at www.cisg.law.pace.edu; CLOUT case No. 378 [Tribunale di Vigevano, Italy, 12 July 2000]; CLOUT case No. 80 [Tribunale di Pavia, Italy, 29 December 1999]; CLOUT case No. 331 [Handelsgericht des Kantons Zürich, Switzerland, 10 February 1999]; CLOUT case No. 196 [Handelsgericht des Kantons Zürich, Switzerland, 26 April 1995]; CLOUT case No. 97 [Handelsgericht des Kantons Zürich, Switzerland, 9 September 1993].

¹⁷See Foreign Trade Court of Arbitration attached to the Serbian Chamber of Commerce, Serbia, 21 February 2005, English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 261 [Berzirksgericht der Sanne, Switzerland, 20 February 1997]; CLOUT case No. 103 [Court of Arbitration of the International Chamber of Commerce, 1993 (Arbitral award no. 6653)].

¹⁸For a decision which refers to the issue of what law governs burden of proof without resolving the matter, see CLOUT case No. 253 [Cantone del Ticino Tribunale d'appello, Switzerland, 15 January 1998].

¹⁹For this line of argument, see Appellationshof Bern, Switzerland, 11 February 2004, English translation available on the Internet at www.cisg.law.pace.edu; Bundesgerichtshof, Germany, 9 January 2002, English translation available at www.cisg.law.pace.edu; CLOUT case No. 378 [Tribunale di Vigevano, Italy, 12 July 2000]; CLOUT case No. 380 [Tribunale di Pavia, Italy, 29 December 1999].

²⁰See CLOUT case No. 97 [Handelsgericht des Kantons Zürich, Switzerland, 9 September 1993].

²¹For references to this principle, see Tribunal cantonal du Valais, Switzerland, 28 January 2009, English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 885 [Kantonsgericht Schaffhausen, Switzerland, 13 November 2003]; Bundesgerichtshof, Germany, 9 January 2002, English translation available at www.cisg.law.pace.edu; CLOUT case No. 378 [Tribunale di Vigevano, Italy, 12 July 2000]; Landgericht Frankfurt, 6 July 1994, Unilex; CLOUT case No. 107 [Oberlandesgericht Innsbruck, Austria, 1 July 1994] (see full text of the decision); CLOUT case No. 608 [Tribunale di Rimini, Italy, 26 November 2002], also in *Guirisprudenza italiana*, 2003, 896 ff.

²²Tribunal cantonal du Valais, Switzerland, 28 January 2009, English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 608 [Tribunale di Rimini, Italy, 26 November 2002], also in *Guirisprudenza italiana*, 2003, 896 ff.

²³See Oberlandesgericht Oldenburg, Germany, 20 December 2007, English translation available on the Internet at www.cisg.law.pace.edu.

²⁴CLOUT case No. 885 [Kantonsgericht Schaffhausen, Switzerland, 13 November 2003].

²⁵See U.S. District Court, Western District of Pennsylvania, United States, 25 July 2008, available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 549 [Audiencia Provincial de Valencia, Spain, 7 June 2003]; CLOUT case No. 251 [Handelsgericht des Kantons Zürich,

Switzerland, 30 November 1998]; CLOUT case No. 196 [Handelsgericht des Kantons Zürich, Switzerland, 26 April 1995] (see full text of the decision).

²⁶See Landgericht Düsseldorf, Germany, 25 August 1994, Unilex; CLOUT case No. 107 [Oberlandesgericht Innsbruck, Austria, 1 July 1994].

²⁷See Rechtbank von Koophandel Hasselt, Belgium, 21 January 1997, Unilex.

²⁸See Rechtbank Zwolle, Netherlands, 1 March 1995, *Nederlands Internationaal Privaatrecht*, 1995, No. 95; Gerechtshof Arnhem, Netherlands, 21 May 1996, *Nederlands Internationaal Privaatrecht*, 1996, No. 398.

²⁹CLOUT case No. 196 [Handelsgericht des Kantons Zürich, Switzerland, 26 April 1995] (see full text of the decision); for another case dealing with the issues of damages and burden of proof, see CLOUT case No. 214 [Handelsgericht des Kantons Zürich, Switzerland, 5 February 1997], stating that a buyer is generally entitled to interest on the loss of profit, but that in the case at hand the buyer lost his right to interest as he did not prove the time in which the profit would have been made (see full text of the decision).

³⁰See CLOUT case No. 549 [Audiencia Provincial de Valencia, Spain, 7 June 2003]; CLOUT case No. 380 [Tribunale di Pavia, Italy, 29 December 1999]; CLOUT case No. 210 [Audiencia Provincial Barcelona, Spain, 20 June 1997]; Landgericht Düsseldorf, Germany, 25 August 1994, Unilex.

³¹For a court referring to both approaches mentioned in the text without, however, taking a position, see Bundesgericht, Switzerland, 17 December 2009, English translation available on the Internet at www.cisg.law.pace.edu; for a court stating that resort is to be had to the rules of the *lex fori*, see CLOUT case No. 906 [Kantonsgericht Nidwalden, Switzerland, 23 May 2005], English translation available on the Internet at www.cisg.law.pace.edu.

³²United States District Court, Western District of Washington, United States, 13 April 2006, available on the Internet at www.cisg.law.pace.edu.

³³Tribunale di Padova, Italy, 31 March 2004, English translation available on the Internet at www.cisg.law.pace.edu.

³⁴U.S. District Court, Western District of Pennsylvania, United States, 25 July 2008, available on the Internet at www.cisg.law.pace.edu.

³⁵U.S. District Court, Middle District of Tennessee, United States, 18 July 2011 (*MSS, Inc. v. Maser Corp.*), available on the Internet at www.cisg.law.pace.edu (unconscionability (?) of agreed damages provision is a matter of validity not governed by CISG); CLOUT case No. 1021 [Foreign Trade Court of Arbitration attached to the Serbian Chamber of Commerce, Serbia, 15 July 2008] (Milk packaging equipment case), English translation available on the Internet at www.cisg.law.pace.edu.

³⁶CLOUT case No. 578 [U.S. District Court, Western District of Michigan, United States, 17 December 2001].

³⁷See U.S. District Court, Eastern District of California, United States, 26 October 2009, 2009 U.S. Dist. LEXIS 104580 (*Rice Corp. v. Grain Board of Iraq, et al.*); Tribunal cantonal du Valais, Switzerland, 28 January 2009, English translation available on the Internet at www.cisg.law.pace.edu; Rechtbank Arnhem, the Netherlands, 14 November 2007, unpublished; United States District Court, Western District of Washington, 13 April 2006, available on the Internet at www.cisg.law.pace.edu; China International Economic and Trade Arbitration Commission, People's Republic of China, 2004 (Arbitral award No. CISG/2004/08), English translation available on the Internet at www.cisg.law.pace.edu; Tribunal of International Commercial Arbitration at the Russian Federation Chamber of Commerce and Industry, Russian Federation, 3 February 2004, English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case 1121 [China International Economic and Trade Arbitration Commission, People's Republic of China, 3 December 2003 (Arbitral award No. CISG/2003/02)], English translation available on the Internet at www.cisg.law.pace.edu; Cour d'appel de Liège, Belgium, 28 April 2003, English translation available on the Internet at www.cisg.law.pace.edu; CLOUT Case No. 579 [Southern District Court for New York, United States of America, 10 May 2002]; CLOUT case No. 445 [Bundesgerichtshof, Germany, 31 October 2001]; CLOUT case No. 433 [U.S. Northern District Court for California, 27 July 2001], also in 2001 U.S. Dist. LEXIS 16000, 2001 Westlaw 1182401 (*Asante Technologies, Inc. v. PMC-Sierra, Inc.*), also available at www.cisg.law.pace.edu; Tribunal of International Commercial Arbitration at the Russian Federation Chamber of Commerce and Industry, Russian Federation, 30 May 2001, English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 428 [Oberster Gerichtshof, Austria, 7 September 2000], Unilex; Hof van Beroep Antwerpen, Belgium, 18 June 1996, available on the Internet at www.law.kuleuven.be.

³⁸See United Nations Conference on Contracts for the International Sale of Goods, Vienna, 10 March–11 April 1980, Official Records, Documents of the Conference and Summary Records of the Plenary Meetings and of the Meetings of the Main Committee, 1981, 17.

³⁹See Tribunale di Padova, Italy, 31 March 2004, English translation available on the Internet at www.cisg.law.pace.edu.

⁴⁰U.S. District Court, New Jersey, United States, 19 March 2012 (*Beth Schiffer Fine Photographic Arts, Inc. v. Colex Imaging Inc.*), available on the Internet at www.cisg.law.pace.edu; See Amtsgericht Sursee, Switzerland, 12 September 2008, available on the Internet at www.cisg.law.pace.edu.

⁴¹See Supreme People's Court, People's Republic of China, 30 June 2014, (*ThyssenKrupp Metallurgical Products GmbH v. Sinochem International (Overseas) Pte Ltd*), (2013) *Min Si Zhong Zi* No. 35 Civil Judgment, available on the Internet at www.court.gov.cn; U.S. District Court, New Jersey, United States, 19 March 2012 (*Beth Schiffer Fine Photographic Arts, Inc. v. Colex Imaging Inc.*), available on the Internet at www.cisg.law.pace.edu; Oberlandesgericht Schleswig, Germany, 24 October 2008, English translation available on the Internet at www.cisg.law.pace.edu; Landgericht Landshut, Germany, 12 June 2008, English translation available on the Internet at www.cisg.law.pace.edu; China International Economic and Trade Arbitration Commission, People's Republic of China, 2007 (Arbitral award No. CISG/2007/01), English translation available on the Internet at www.cisg.law.pace.edu; Cour d'appel de Versailles, France, 13 October 2005, English translation available on the Internet at www.cisg.law.pace.edu; China International Economic and Trade Arbitration Commission, People's Republic of China, 2005 (Arbitral award No. CISG/2005/24), English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 907 [Tribunal cantonal du Valais, Switzerland, 27 May 2005]; China International Economic and Trade Arbitration Commission, People's Republic of China, 2005 (Arbitral award No. CISG/2005/22), English translation available on the Internet at www.cisg.law.pace.edu; China International Economic and Trade Arbitration Commission, People's Republic of China, 2005 (Arbitral award No. CISG/2005/06), English translation available on the Internet at www.cisg.law.pace.edu; China International Economic and Trade Arbitration Commission, People's Republic of China, 2004 (Arbitral award No. CISG/2004/07), English translation available on the Internet at www.cisg.law.pace.edu; Shanghai No. I. Intermediate People's Court, People's Republic of China, 23 March 2004, English translation available

on the Internet at www.cisg.law.pace.edu; China International Economic and Trade Arbitration Commission, People's Republic of China, 2004 (Arbitral award No. CISG/2004/04), English translation available on the Internet at www.cisg.law.pace.edu; Tribunale di Padova, Italy, 25 February 2004, English translation available on the Internet at www.cisg.law.pace.edu; China International Economic and Trade Arbitration Commission, People's Republic of China, 2002 (Arbitral award No. CISG/2002/01), English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 378 [Tribunale di Vigevano, Italy, 12 July 2000] (see full text of the decision); CLOUT case No. 333 [Handelsgericht des Kantons Aargau, Switzerland, 11 June 1999] (see full text of the decision); Landgericht Berlin, 24 March 1999, Unilex; CLOUT case No. 251 [Handelsgericht des Kantons Zürich, Switzerland, 30 November 1998] (see full text of the decision); CLOUT case No. 189 [Oberster Gerichtshof, Austria, 20 March 1997] (see full text of the decision); CLOUT case No. 335 [Cantone del Ticino, Tribunale d'appello, Switzerland, 12 February 1996], also in *Schweizerische Zeitschrift für europäisches und internationales Recht*, 1996, 135 ff.; CLOUT case No. 334 [Obergericht des Kantons Thurgau, Switzerland, 19 December 1995]; CLOUT case No. 80 [Kammergericht Berlin, Germany, 24 January 1994] (see full text of the decision).

⁴²See Landgericht Landshut, Germany, 12 June 2008, English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 428 [Oberster Gerichtshof, Austria, 7 September 2000], Unilex; Rechtbank Zutphen, Netherlands, 29 May 1997, *Nederlands Internationaal Privaatrecht*, 1998, No. 110; Amtsgericht Nordhorn, Germany, 14 June 1994, Unilex.

⁴³Oberlandesgericht Linz, Austria, 23 March 2005, English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 831 [Hoge Raad, the Netherlands, 28 January 2005]; Oberlandesgericht Düsseldorf, Germany, 21 April 2004, English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 592 [Oberlandesgericht Düsseldorf, Germany, 30 January 2004]; CLOUT case No. 819 [Landgericht Trier, Germany, 8 January 2004].

⁴⁴For a different position, see Rechtbank Arnhem, the Netherlands, 17 March 2004, (stating that issue of the applicability of seller's standard terms and conditions is governed by gap-filling domestic law), English translation available on the Internet at www.cisg.law.pace.edu.

⁴⁵See CLOUT case No. 425 [Oberster Gerichtshof, 21 March 2000], Unilex.

⁴⁶*Ibid.*

⁴⁷See CLOUT case No. 240 [Oberster Gerichtshof, Austria, 15 October 1998].

⁴⁸See China International Economic and Trade Arbitration Commission, People's Republic of China, 2008 (Arbitral award No. CISG/2008/01), English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 1233 [Oberlandesgericht München, Germany, 5 March 2008], English translation available on the Internet at www.cisg.law.pace.edu; Landgericht Freiburg, Germany, 22 August 2002, English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 613 [U.S. District Court, Northern District for Illinois, United States, 28 March 2002], Unilex; CLOUT case No. 447 [U.S. District Court, Southern District of New York, United States, 26 March 2002]. But see CLOUT case No. 632 [U.S. Bankruptcy Court, United States 10 April 2001] (citing CISG article 53 in support of the proposition that payment or non-payment of the price is significant in determining whether title to goods had passed to the buyer).

⁴⁹See United Nations Conference on Contracts for the International Sale of Goods, Vienna, 10 March–11 April 1980, Official Records, Documents of the Conference and Summary Records of the Plenary Meetings and of the Meetings of the Main Committee, 1981, 17.

⁵⁰See CLOUT case No. 1021 [Foreign Trade Court of Arbitration attached to the Serbian Chamber of Commerce, Serbia, 15 July 2008] (Milk packaging equipment case), English translation available on the Internet at www.cisg.law.pace.edu; *Efetio Athinon*, Greece, 2006 (docket No. 4861/2006), English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 613 [U.S. District Court, Northern District of Illinois, United States, 28 March 2002], Unilex; CLOUT case No. 308 [Federal Court, South Australian District, Adelaide, Australia, 28 April 1995]; CLOUT case No. 226 [Oberlandesgericht Koblenz, Germany, 16 January 1992].

⁵¹Oberlandesgericht Stuttgart, Germany, 20 December 2004, English translation available on the Internet at www.cisg.law.pace.edu.

⁵²In addition to the issues listed in article 4, article 5 provides that the "Convention does not apply to the liability of the seller for death or personal injury caused by the goods to any person." See the Digest for article 5.

⁵³See High People's Court of Zhejiang Province, People's Republic of China, 22 October 2010, (Ningbo Bulijie Import and Export Co. Ltd v. The Money Consultants Inc. a/n Bonici Fashion) (2010) *Zhe Shang Wai Zhong Zi* No. 77 Civil Judgment, available on the Internet at www.ccmt.org.cn.

⁵⁴See Bundesgerichtshof, Germany, 25 March 2015, CISG-online No. 2588 (CISG does not regulate the formation and form of a choice of court agreement; however, the agreement on the sale may indicate also agreement on the choice of court); Cámara Nacional de los Apelaciones en lo Comercial, Argentina, 14 October 1993, Unilex.

⁵⁵See CLOUT case No. 1399 [Oberlandesgericht Hamburg, Germany, 25 January 2008], English translation available on the Internet at www.cisg.law.pace.edu; Tribunal of International Commercial Arbitration at the Russian Federation Chamber of Commerce and Industry, Russian Federation, 1 March 2006, English translation available on the Internet at www.cisg.law.pace.edu; Tribunal of International Commercial Arbitration at the Russian Federation Chamber of Commerce and Industry, Russian Federation, 13 January 2006, English translation available on the Internet at www.cisg.law.pace.edu; China International Economic and Trade Arbitration Commission, People's Republic of China, 2005 (Arbitral award No. CISG/2005/05), English translation available on the Internet at www.cisg.law.pace.edu; China International Economic and Trade Arbitration Commission, People's Republic of China, 2005 (Arbitral award No. CISG/2005/04), English translation available on the Internet at www.cisg.law.pace.edu; Tribunal of International Commercial Arbitration at the Russian Federation Chamber of Commerce and Industry, Russian Federation, 27 April 2005, English translation available on the Internet at www.cisg.law.pace.edu; China International Economic and Trade Arbitration Commission, People's Republic of China, 2004 (Arbitral award No. CISG/2004/07), English translation available on the Internet at www.cisg.law.pace.edu; Tribunal of International Commercial Arbitration at the Russian Federation Chamber of Commerce and Industry, Russian Federation, 9 June 2004, English translation available on the Internet at www.cisg.law.pace.edu; Tribunal of International Commercial Arbitration at the Russian Federation Chamber of Commerce and Industry, Russian Federation, 24 May 2004, English translation available on the Internet at www.cisg.law.pace.edu; Tribunal of International Commercial Arbitration at the Russian Federation Chamber of Commerce and Industry, Russian Federation, 20 April 2004, English translation available on the Internet at www.cisg.law.pace.edu; Tribunal of International Commercial Arbitration at the Russian Federation Chamber of Commerce and Industry, Russian Federation, 19 March 2004, English translation available on the Internet at www.cisg.law.pace.edu; Tribunale di Padova, Italy, 25 February 2004, English translation available on the Internet at www.cisg.law.pace.edu; Tribunal of International Commercial Arbitration at the Russian Federation Chamber of Commerce and Industry, Russian Federation, 19 February 2004, English translation available on the

Internet at www.cisg.law.pace.edu; Tribunal of International Commercial Arbitration at the Russian Federation Chamber of Commerce and Industry, Russian Federation, 16 April 2003, English translation available on the Internet at www.cisg.law.pace.edu; Tribunal of International Commercial Arbitration at the Russian Federation Chamber of Commerce and Industry, Russian Federation, 4 April 2003, English translation available on the Internet at www.cisg.law.pace.edu; Tribunal of International Commercial Arbitration at the Russian Federation Chamber of Commerce and Industry, Russian Federation, 18 February 2002, English translation available on the Internet at www.cisg.law.pace.edu; Rechtbank van Koophandel Hasselt, Belgium, 17 June 1998, available on the Internet at www.law.kuleuven.be; Hof van Beroep Antwerpen, Belgium, 18 June 1996, available on the Internet at www.law.kuleuven.be; Gerechtshof Arnhem, Netherlands, 22 August 1995, *Nederlands Internationaal Privaatrecht*, 1995, No. 514; CLOUT case No. 104 [Court of Arbitration of the International Chamber of Commerce, 1992 (Award no. 7197)].

⁵⁶See CLOUT case No. 47 [Landgericht Aachen, Germany, 14 May 1993] (see full text of the decision).

⁵⁷See Handelsgericht Aargau, Switzerland, 26 November 2008, English translation available on the Internet at www.cisg.law.pace.edu; District Court in Trnava, Slovakia, 17 September 2008, English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 1399 [Oberlandesgericht Hamburg, Germany, 25 January 2008], English translation available on the Internet at www.cisg.law.pace.edu; Regional Court in Kosice, Slovakia, 22 May 2007, English translation available on the Internet at www.cisg.law.pace.edu; Tribunal of International Commercial Arbitration at the Russian Federation Chamber of Commerce and Industry, Russian Federation, 27 May 2005, English translation available on the Internet at www.cisg.law.pace.edu; Tribunale di Padova, Italy, 25 February 2004, English translation available on the Internet at www.cisg.law.pace.edu; Bundesgerichtshof, Germany, 9 January 2002, English translation available at www.cisg.law.pace.edu; CLOUT case No. 428 [Oberster Gerichtshof, Austria, 7 September 2000], Unilex; Oberster Gerichtshof, Austria, 25 June 1998, *Zeitschrift für Rechtsvergleichung*, 2000, 77; Oberlandesgericht Graz, Austria, 15 June 2000, English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 269 [Bundesgerichtshof, Germany, 12 February 1998] (see full text of the decision); CLOUT case No. 334 [Obergericht des Kantons Thurgau, Switzerland, 19 December 1995]; Tribunal de commerce Nivelles, Belgium, 19 September 1995, Unilex; CLOUT case No. 132 [Oberlandesgericht Hamm, Germany, 8 February 1995]; Bezirksgericht Arbon, Switzerland, 9 December 1994, Unilex.

⁵⁸See CLOUT case No. 124 [Bundesgerichtshof, Germany, 15 February 1995] (see full text of the decision).

⁵⁹See U.S. District Court, Northern District of Illinois, United States, 21 March 2012 (Maxxsonics USA, Inc. v. Fengshung Peiyang Electro Acoustic Company Ltd), available on the Internet at www.cisg.law.pace.edu; Bundesgerichtshof, Germany, 23 June 2010, in *Internationales Handelsrecht*, 2010, 217, 221; Appellationsgericht Basel-Stadt, Switzerland, 26 September 2008, English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 1231 [Oberlandesgericht Köln, Germany, 19 May 2008];] *Monomeles Protodikio Thessalonikis*, Greece, 2007 (docket No. 43945/2007), English abstract available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 823 [Oberlandesgericht Köln, Germany, 13 February 2006], also in *Internationales Handelsrecht*, 2006, 145 ff.; CLOUT case No. 908 [Handelsgericht Zürich, Switzerland, 22 December 2005]; Oberlandesgericht Linz, Austria, 23 March 2005, English translation available on the Internet at www.cisg.law.pace.edu; Oberlandesgericht Stuttgart, Germany, 20 December 2004, English translation available on the Internet at www.cisg.law.pace.edu; Oberlandesgericht Düsseldorf, Germany, 22 July 2004, English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 894 [Bundesgericht, Switzerland, 7 July 2004]; Tribunale di Padova, Italy, 25 February 2004, English translation available on the Internet at www.cisg.law.pace.edu; Landgericht Bielefeld, Germany, 12 December 2003, English translation available on the Internet at www.cisg.law.pace.edu; Oberlandesgericht Düsseldorf, Germany, 25 July 2003, English translation available on the Internet at www.cisg.law.pace.edu; Landgericht Mönchengladbach, Germany, 15 July 2003, English translation available on the Internet at www.cisg.law.pace.edu; Bundesgerichtshof, Germany, 9 January 2002, English translation available at www.cisg.law.pace.edu; CLOUT case No. 605 [Oberster Gerichtshof, Austria, 22 October 2001], also in *Internationales Handelsrecht*, 2002, 27; CLOUT case No. 727 [Chamber of National and International Arbitration of Milan, Italy, 28 September 2001]; Oberlandesgericht Köln, Germany, 28 May 2001, English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 378 [Tribunale di Vigevano, Italy, 12 July 2000] (see full text of the decision); CLOUT case No. 360 [Amtsgericht Duisburg, Germany, 13 April 2000], Unilex; CLOUT case No. 232 [Oberlandesgericht München, Germany, 11 March 1998]; CLOUT case No. 259 [Kantonsgericht Freiburg, Switzerland, 23 January 1998]; Landgericht Hagen, Germany, 15 October 1997, available on the Internet at www.cisg-online.ch; Landgericht München, Germany, 6 May 1997, available on the Internet at www.cisg-online.ch; CLOUT case No. 273 [Oberlandesgericht München, Germany, 9 July 1997] (see full text of the decision); CLOUT case No. 275 [Oberlandesgericht Düsseldorf, Germany, 24 April 1997] (see full text of the decision); CLOUT case No. 169 [Oberlandesgericht Düsseldorf, Germany, 11 July 1996]; Landgericht Duisburg, Germany, 17 April 1996, Unilex; CLOUT case No. 289 [Oberlandesgericht Stuttgart, Germany, 21 August 1995]; Landgericht München, Germany, 20 March 1995, Unilex; Rechtbank Middelburg, Netherlands, 25 January 1995, Unilex; Amtsgericht Mayen, Germany, 6 September 1994, available on the Internet at www.cisg-online.ch; CLOUT case No. 281 [Oberlandesgericht Koblenz, Germany, 17 September 1993]; CLOUT case No. 125 [Oberlandesgericht Hamm, Germany, 9 June 1995]; Rechtbank Roermond, Netherlands, 6 May 1993, Unilex; CLOUT case No. 99 [Rechtbank Arnhem, Netherlands, 25 February 1993].

⁶⁰See Bundesgerichtshof, Germany, 24 September 2014, *Neue Juristische Wochenschrift* 2015, 867 = CISG-online No. 2545 (para. 51 ss.: CISG covers set-off only if the mutual claims stem from the same CISG contract; where in such a case a party raises the express or implied defence of set-off, the mutual claims are therefore extinguished to the extent they are equal in amount unless the parties have agreed on an exclusion of set-off); Bundesgerichtshof, Germany, 14 May 2014, *Neue Juristische Wochenschrift* 2014, 3156 = CISG-online No. 2493 (para. 18: CISG does not cover set-off if the mutual claims are “inconnex” [only one claim stems from a CISG contract]); also Handelsgericht Kanton St. Gallen, Switzerland, 14 June 2012, *Internationales Handelsrecht* 2014, 16 = CISG-online No. 2468; further CLOUT case No. 821 [Oberlandesgericht Karlsruhe, Germany, 20 July 2004]; CLOUT case No. 591 [Oberlandesgericht Düsseldorf, Germany, 28 May 2004]; CLOUT case No. 605 [Oberster Gerichtshof, Austria, 22 October 2001], also available on the Internet at www.cisg.at. For the application of the Convention to set-off in respect of receivables arising out of contracts governed by the Convention, see Kantonsgericht Zug, Switzerland, 14 December 2009, available on the Internet at www.cisg-online.ch; Landgericht Stuttgart, Germany, 29 October 2009, English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 360 [Amtsgericht Duisburg, Germany, 13 April 2000], Unilex; CLOUT case No. 273 [Oberlandesgericht München, Germany, 9 July 1997] (see full text of the decision).

⁶¹Hof van Cassatie, Belgium, 19 June 2009, English translation available on the Internet at www.cisg.law.pace.edu.

⁶²See Bundesgerichtshof, Germany, 23 October 2013, *Internationales Handelsrecht* 2014, 25 = CISG-online No. 2474; Bundesgericht, Switzerland, 18 May 2009, English translation available on the Internet at www.cisg.law.pace.edu; Appellationsgericht Basel-Stadt, Switzerland, 26 September 2008, English translation available on the Internet at www.cisg.law.pace.edu; Supreme Court, Slovakia, 30 April 2008, English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 823 [Oberlandesgericht Köln, Germany,

13 February 2006], also in *Internationales Handelsrecht*, 2006, 145 ff.; Cour d'appel de Versailles, France, 13 October 2005, English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 946 [Krajský súd v. Bratislava, Slovakia, 11 October 2005], available on the Internet at www.cisg.law.pace.edu; Tribunal of International Commercial Arbitration at the Russian Federation Chamber of Commerce and Industry, Russian Federation, 2 June 2005, English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 906 [Kantonsgericht Nidwalden, Switzerland, 23 May 2005], English translation available on the Internet at www.cisg.law.pace.edu; Hof van Beroep Ghent, Belgium, 4 October 2004, English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 821 [Oberlandesgericht Karlsruhe, Germany, 20 July 2004]; Tribunal of International Commercial Arbitration at the Russian Federation Chamber of Commerce and Industry, Russian Federation, 9 June 2004, English translation available on the Internet at www.cisg.law.pace.edu; Hof van Beroep Ghent, Belgium, 17 May 2004, English translation available on the Internet at www.cisg.law.pace.edu; Tribunal of International Commercial Arbitration at the Ukrainian Chamber of Commerce and Trade, Ukraine, 15 April 2004, English translation available on the Internet at www.cisg.law.pace.edu; Tribunale di Padova, Italy, 25 February 2004, English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 892 [Kantonsgericht Schaffhausen, Switzerland, 27 January 2004]; CLOUT case No. 635 [Oberlandesgericht Karlsruhe, Germany, 10 December 2003]; Oberlandesgericht Zweibrücken, Germany, 26 July 2002, English translation available on the Internet at www.cisg.law.pace.edu; Court of Arbitration of the International Chamber of Commerce, France, 2002 (Arbitral award No. 11333), English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 879 [Handelsgericht Bern, Switzerland, 19 January 2002]; Rechtbank van Koophandel Ieper, Belgium, 29 January 2001, available on the Internet at www.law.kuleuven.be; CLOUT case No. 428 [Oberster Gerichtshof, Austria, 7 September 2000], Unilex; CLOUT case No. 378 [Tribunale di Vigevano, Italy, 12 July 2000] (see full text of the decision); CLOUT case No. 476 [Tribunal of International Commercial Arbitration at the Russian Federation Chamber of Commerce and Industry, Russian Federation, 6 June 2000]; CLOUT case No. 297 [Oberlandesgericht München, Germany, 21 January 1998] (see full text of the decision); Oberster Gerichtshof, Austria, 25 June 1998, *Zeitschrift für Rechtsvergleichung*, 2000, 77; CLOUT case No. 345 [Landgericht Heilbronn, Germany, 15 September 1997]; CLOUT case No. 249 [Cour de Justice Genève, Switzerland, 10 October 1997]; Landgericht Düsseldorf, Germany, 11 October 1995, available on the Internet at www.cisg-online.ch; CLOUT case No. 125 [Oberlandesgericht Hamm, Germany, 9 June 1995]; CLOUT case No. 302 [Court of Arbitration of the International Chamber of Commerce, 1994 (Arbitral award No. 7660/KJ)], see also *ICC Court of Arbitration Bulletin*, 1995, 69 ff. But see CLOUT case No. 482 (Cour d'appel de Paris, France, 6 November 2001) (stating that the limitation period is a matter governed by but not expressly settled in the Convention, but resolving the issue by reference to applicable domestic law).

⁶³See Bundesgericht, Switzerland, 11 July 2000, Unilex; CLOUT case No. 196 [Handelsgericht des Kantons Zürich, Switzerland, 26 April 1995] (see full text of the decision).

⁶⁴Tribunal cantonal du Valais, Switzerland, 21 February 2005, English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 1402 [Cour de Justice de Genève, Switzerland, 15 November 2002], English translation available on the Internet at www.cisg.law.pace.edu; Bundesgericht, Switzerland, 11 July 2000, Unilex.

⁶⁵See Landgericht Hamburg, Germany, 2 November 2005, English translation available on the Internet at www.cisg.law.pace.edu; Oberster Gerichtshof, Austria, 24 April 1997, Unilex.

⁶⁶See Bundesgericht, Switzerland, 17 October 2000, English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 338 [Oberlandesgericht Hamm, Germany, 23 June 1998].

⁶⁷See CLOUT case No. 848 [U.S. District Court, Middle District of Pennsylvania, United States, 6 January 2006], also in 2006 U.S. Dist. LEXIS 1569 (*American Mint LLC, Goede Beteiligungsgesellschaft, and Michael Goede v. GOSoftware, Inc.*); U.S. District Court, Middle District of Pennsylvania, United States, 16 August 2005, available on the Internet at www.cisg.law.pace.edu; U.S. District Court, Northern District of Illinois, United States, 30 March 2005, available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 613 [U.S. District Court, Northern District of Illinois, United States, 28 March 2002], Unilex; CLOUT case No. 269 [Bundesgerichtshof, Germany, 12 February 1998].

⁶⁸See Landgericht München, Germany, 25 January 1996, Unilex.

⁶⁹Bundesgerichtshof, Germany, 23 October 2013, *Internationales Handelsrecht* 2014, 25 = CISG-online No. 2474.

⁷⁰Bundesgerichtshof, Germany, 25 March 2015, CISG-online No. 2588 (para. 46).

⁷¹CLOUT Case No. 579 [U.S. District Court, Southern District Court of New York, United States, 10 May 2002]; CLOUT case No. 420 [U.S. District Court, Eastern District of Pennsylvania, United States, 29 August 2000].

⁷²U.S. District Court, Eastern District of Missouri, United States, 10 January 2011 (*Semi-Materials Co., Ltd v. MEMC Electronic Materials, Inc.*), available on the Internet at www.cisg.law.pace.edu (domestic law claims for unjust enrichment/restitution are pre-empted by CISG when those claims are based on breach of intentional contract governed by CISG); U.S. District Court, Eastern District of Arkansas, United States, 23 December 2009, available on the Internet at www.cisg.law.pace.edu.

⁷³U.S. District Court, Eastern District of Missouri, United States, 10 January 2011 (*Semi-Materials Co., Ltd v. MEMC Electronic Materials, Inc.*), available on the Internet at www.cisg.law.pace.edu (domestic law claims for unjust enrichment/restitution are pre-empted by CISG when those claims are based on breach of contract governed by CISG); U.S. District Court, Eastern District of Arkansas, United States, 23 December 2009, available on the Internet at www.cisg.law.pace.edu; see also U.S. District Court, Southern District of Ohio, United States, 26 March 2009, available on the Internet at www.cisg.law.pace.edu.

⁷⁴U.S. District Court, Eastern District of Arkansas, United States, 23 December 2009, available on the Internet at www.cisg.law.pace.edu.

⁷⁵CLOUT case No. 894 [Bundesgericht, Switzerland, 7 July 2004].

⁷⁶U.S. District Court, Northern District of Illinois, United States, 30 March 2005, available on the Internet at www.cisg.law.pace.edu; Arrondissementsrechtbank Amsterdam, Netherlands, 5 October 1994, *Nederlands Internationaal Privaatrecht*, 1995, No. 231.

⁷⁷See CLOUT case No. 230 [Oberlandesgericht Karlsruhe, Germany, 25 June 1997] (see full text of the decision); CLOUT case No. 94 [Internationales Schiedsgericht der Bundeskammer der gewerblichen Wirtschaft—Wien, Austria, 15 June 1994]; CLOUT case No. 93 [Internationales Schiedsgericht der Bundeskammer der gewerblichen Wirtschaft—Wien, Austria, 15 June 1994] (see full text of the decision); Hof 's-Hertogenbosch, Netherlands, 26 February 1992, Unilex.

⁷⁸CLOUT case No. 613 [U.S. District Court, Northern District of Illinois, United States, 28 March 2002] also in 2002 Westlaw 655540 (*Usinor Industrieel v. Leeco Steel Products, Inc.*) and available on the Internet at www.cisg.law.pace.edu.

⁷⁹For a case expressly referring to the fact that the parties are free to choose the currency since the Convention does not deal with the issue, see CLOUT case No. 84 [Oberlandesgericht Frankfurt a.M., Germany, 20 April 1994] (see full text of the decision).

⁸⁰See CLOUT case No. 907 [Tribunal cantonal du Valais, Switzerland, 27 May 2005]; Tribunal cantonal du Valais, Switzerland, 19 August 2003, English translation available on the Internet at www.cisg.law.pace.edu; Juzgado Comercial No. 26 Secretaria No. 51, Buenos Aires, Argentina, 2 July 2003, English translation available on the Internet at www.cisg.law.pace.edu; Juzgado Comercial No. 26 Secretaria No. 52, Buenos Aires, Argentina, 17 March 2003, English translation available on the Internet at www.cisg.law.pace.edu; CLOUT case No. 605 [Oberster Gerichtshof, Austria, 22 October 2001], also available on the Internet at www.cisg.at; CLOUT case No. 255 [Tribunal cantonal du Valais, Switzerland, 30 June 1998]; CLOUT case No. 251 [Handelsgericht des Kantons Zürich, Switzerland, 30 November 1998] (see full text of the decision).

⁸¹CLOUT case No. 80 [Kammergericht Berlin, Germany, 24 January 1994]; see, however, Landgericht Berlin, 24 March 1998, Unilex (describing an alternative view that the Convention does not contain a general principle to address this issue).

⁸²*Monomeles Protodikio Thessalonikis*, Greece, 2008 (docket No. 16319/2007), English abstract available on the Internet at www.cisg.law.pace.edu.