

Article 58

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

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

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

INTRODUCTION

1. Article 58 defines the time when the price becomes due in the absence of any particular contractual stipulation on the matter.¹ Where it fixes the time at which the price is payable, article 58 also determines the moment at which interest based on article 78 of the Convention begins to accrue, as has been observed in many decisions.²

SIMULTANEOUS PAYMENT OF THE PRICE
AND HANDING OVER OF THE GOODS OR
DOCUMENTS (ARTICLE 58 (1))

2. The Convention does not require the seller, in the absence of a particular agreement on the subject, to grant credit to the buyer. Article 58 (1) establishes a default rule of simultaneous handover of the goods (or of documents controlling their disposition) and payment of the price:³ the buyer must pay the price when the seller places either the goods or documents controlling their disposition at its disposal (article 58 (1) first sentence). This main rule is accompanied by two complementary rules. First, article 58 (3) grants the buyer the right to examine the goods prior to payment unless the delivery or payment terms agreed on by the parties do not afford the buyer that right. Secondly, the handover of the goods or documents controlling their disposition to the buyer may be refused if the buyer does not pay the price at the time fixed by the Convention (article 58 (1), second sentence, and article 58 (2)). The seller thus has the right to retain the goods (or documents controlling their disposition) in these circumstances.

3. Contract terms, commercial usages and practices established between the parties (article 9)⁴ may give rise to derogation from the rule of simultaneous exchange of goods and price, a principle which, according to article 58 (1), applies only "[i]f the buyer is not bound to pay the price at any other specific time." The primacy of party autonomy has been emphasized by various courts.⁵ Account also has to be taken of any contract modifications made by the parties (article 29).⁶

4. As reflected in case law, it often happens that the parties to an international sale covered by the Convention expressly or impliedly agree on the time for payment of the price. Contractual stipulations may take very varied forms. The courts have accordingly given effect to clauses that provide for payment of the price upon the issuance of notice from the seller that the goods are ready for delivery⁷ or that stipulate that the price is payable upon receipt of the invoice⁸ or within a specific period from issuance or receipt of the invoice⁹ or on a calendar day¹⁰ or within a specific period from delivery of the goods¹¹ or from receipt of the documents referred to in the contract¹² or within a time limit preceding takeover of the goods by the buyer¹³ or within a specific period after delivery of the goods on board the vessel.¹⁴ Some decisions have also given effect to a clause which provides for payment of the price within a specific period from the buyer's acceptance of seasonal order confirmation¹⁵ or within a specific period from payment by a sub-buyer.¹⁶ Similarly, one decision gave effect, in connection with a consignment sale, to a clause which had made payment of the price of goods consigned and stored at a separate location conditional on their withdrawal from stock by the buyer.¹⁷ The time of payment can very often be determined from a payment clause contained in the contract, such as clauses providing for "cash on delivery",¹⁸ "cash before delivery", "payment on invoice" or "cash against documents". The Incoterms (2000 and 2010) stipulate solely that "the buyer must pay the price of the goods as provided in the contract of sale" without directly determining the time for payment of the price. By specifying the place of delivery of the goods, the Incoterms can nevertheless influence the time for payment of the price.¹⁹ Contractual provisions relating to payment due dates can also include settlement by instalments, under different modalities. In a dispute heard by the Swiss Higher Federal Court, the contract stipulated that 30 per cent of the price was to be paid at the time when an industrial plant was ordered, 30 per cent at the commencement of assembly and 30 per cent on completion of installation, the final 10 per cent being due after successful start-up of the facility.²⁰ The court observed that the parties had thus derogated from the principle of simultaneous performance as embodied in CISG article 58. It has similarly been held

that a seller who had granted credit to the buyer could not rely on the principle of simultaneous performance in CISG article 58.²¹ Also, the parties derogate from the principle of simultaneous performance if they decide to postpone the payment date by arranging, after delivery of the goods, for settlement by bill of exchange.²²

5. The place for handing over the goods or documents depends on the rules set forth in the Convention. Article 31 acknowledges the primacy of party autonomy, which is often expressed, in contract practice, by reference to trade terms, such as the Incoterms. For the sale of goods at a particular place, the price becomes payable when the goods are at the buyer's disposal at the place agreed on by the parties (article 31) or, failing that, at the place of manufacture or production of the goods (article 31 (b)) or at the seller's place of business (article 31 (c)). If the seller has to deliver the goods at the buyer's place of business or at any other place (article 31), the price becomes payable when the goods are placed at the buyer's disposal at that place.²³ If the sale involves carriage of the goods, the seller fulfils its obligation to deliver by handing the goods over to the first carrier for transmission to the buyer (article 31 (a)). In accordance with the general rule set forth in article 58 (1), the buyer is not bound to pay for the goods until they are placed at the buyer's disposal by the last carrier. In the absence of a particular contractual provision, the seller is thus not entitled to make handover of the goods to the first carrier conditional on advance payment of the price by the buyer. If the buyer has to take over the goods at the seller's place of business or at another specific place (article 31 (b) and (c)), it has been held that payment becomes due only a reasonable period of time after the goods were prepared for being taken over (identified, etc.) and the buyer was informed accordingly. For the buyer must be given reasonable time for taking over and – superficially – examining the goods.²⁴

DOCUMENTS CONTROLLING THE DISPOSITION OF THE GOODS (ARTICLE 58 (1) AND (2))

6. Article 58 (1) imposes on the buyer the obligation to pay the price only when the seller has placed “either the goods or documents controlling their disposition” at the buyer's disposal. This provision, like article 58 (2),²⁵ thus puts delivery of the goods and handing over of documents controlling their disposition on the same level. The difficulty, in the absence of any contractual stipulation,²⁶ is determining what is meant by “documents controlling the disposition of the goods”. According to the predominant view, this concept is narrower than that in article 34, which refers to the obligation to hand over “documents relating to the goods”.²⁷ It has been held that certificates of origin and quality,²⁸ as well as customs documents,²⁹ do not constitute documents controlling the disposition of the goods within the meaning of article 58 (1), and that their non-delivery could therefore not justify a buyer's refusal to pay the price.

RIGHT OF RETENTION (ARTICLE 58 (1) AND (2))

7. Unless otherwise agreed by the parties, “[t]he seller may make such payment a condition for handing over the goods or documents” (article 58 (1), second sentence). In other words, unless otherwise agreed the seller has the right to retain the

goods until the buyer has paid their price. A seller who decides to exercise that right is nevertheless required to grant the buyer an opportunity to examine the goods (article 58 (3)).³⁰ Unless otherwise agreed by the parties, the buyer has a corresponding right to refuse to pay the price until the seller has placed the goods or documents controlling their disposition at the buyer's disposal and granted the buyer the right to examine them.³¹ Article 58 (2) also establishes a right of retention in the seller's favour in the case of a sale involving carriage of the goods within the meaning of article 31 (a): the seller may dispatch the goods on terms whereby the goods or documents controlling their disposition will not be handed over to the buyer except against payment of the price. The implementation of the seller's right of retention entails the cooperation of the carrier. In this case also, a seller who decides to exercise that right is required to grant the buyer an opportunity to examine the goods (article 58 (3)).³²

BUYER'S RIGHT TO EXAMINE THE GOODS IN ADVANCE (ARTICLE 58 (3))

8. In accordance with article 58 (3), the buyer is not, in principle, bound to pay the price until afforded an opportunity to examine the goods. The right to prior examination of the goods may be excluded by a contractual stipulation or by procedures for delivery or payment that are incompatible with such examination, such as clauses specifying “payment against handing over of documents” or “payment against handing over of the delivery slip”. The buyer's right is limited to a brief and superficial examination of the goods, unlike the obligation established in article 38.³³

9. Article 58 (3) says nothing about whether the buyer is entitled to suspend payment of the price if the examination of the goods reveals that the goods are not in conformity with the contract. The question of suspension of payment of the price by the buyer can also arise subsequently in a situation where notice of a lack of conformity is given under article 39 and all or part of the price is still due. The Supreme Court of Austria has ruled that the buyer was entitled to suspend payment of the price, as a general principle within the meaning of article 7 (2) of the Convention.³⁴ The Court observed, *inter alia*, that the principle of simultaneous performance underlay the Convention, being expressed in CISG articles 71 and 58 (3), and that the right to examine the goods, as recognized by article 58 (3), would be meaningless if a buyer was bound to pay the price immediately in a case where the buyer had been able to establish non-conformity and demanded substitute goods or the repair of the goods. The German Supreme Court held that the synallagmatic relation between delivery and payment allows the buyer to raise the defence that the seller did not fulfill all contractual duties even if the parties agreed on a choice of court clause that all claims must be brought at the respective defendant's seat.³⁵ In the (a ?) concrete case the Chinese seller of x-ray tubes had sued the German buyer in Germany and the buyer had declared set-off with damages claims because of defects of the tubes and had raised the defence of non-fulfillment of the contract. While the choice of court clause excluded set-off with damages claims (they had to be brought before court in China), the Supreme Court allowed the defence of the non-fulfilled contract because otherwise the buyer of defective goods would be left without any protection. The Court held that this was not the intention of the choice of court clause.³⁶

Notes

¹ See, in particular, Handelsgericht des Kantons Bern, Switzerland, 17 August 2009, available in German on the Internet at www.globalsaleslaw.org; Landgericht Mönchengladbach, Germany, 15 July 2003, *Internationales Handelsrecht*, 2003, 229, available in German on the Internet at www.globalsaleslaw.org, available in English on the Internet at www.cisg.law.pace.edu; Kantonsgericht Schaffhausen, Switzerland, 25 February 2002, available in German on the Internet at www.cisg-online.ch, available in English on the Internet at www.cisg.law.pace.edu (the general rules in article 58 are applicable since the parties, by their conduct, waived application of the contractual conditions concerning payment as stated in the contract); CLOUT case No. 197 [Tribunal cantonal du Valais, Switzerland, 20 December 1994], *Revue valaisanne de jurisprudence* (RVJ), 1995, 164; see also the decisions cited in note 5 *infra*.

² See, in particular, Handelsgericht des Kantons Bern, Switzerland, 17 August 2009, available in German on the Internet at www.globalsaleslaw.org; Tribunal cantonal du Valais, Switzerland, 28 January 2009, available in German on the Internet at www.globalsaleslaw.org, available in English on the Internet at www.cisg.law.pace.edu; Handelsgericht Aargau, Switzerland, 26 November 2008, available in German on the Internet at www.globalsaleslaw.org, available in English on the Internet at www.cisg.law.pace.edu; Okresný súd Dolný Kubín, Slovakia, 17 June 2008, available in Slovak on the Internet at www.cisg.sk, available in English on the Internet at www.cisg.sk; Monomeles Protodikio Thessalonikis, Greece, 2008, *Hronika Idiotikou Dikeou*, 2008, 52, available in Greek on the Internet at www.cisg.law.pace.edu, English abstract available on the Internet at www.cisg.law.pace.edu; Kantonsgericht von Appenzell-Ausser rhoden, Switzerland, 6 September 2007, available in German on the Internet at www.globalsaleslaw.org, available in English on the Internet at www.cisg.law.pace.edu; Tribunal cantonal du Valais, Switzerland, 27 October 2006, available in French on the Internet at www.globalsaleslaw.org, available in English on the Internet at www.cisg.law.pace.edu; Handelsgericht Aargau, Switzerland, 25 January 2005, *Internationales Handelsrecht*, 2006, 34, available in German on the Internet at www.globalsaleslaw.org, available in English on the Internet at www.cisg.law.pace.edu; Tribunal cantonal du Valais, Switzerland, 19 August 2003, *Revue suisse de droit international et européen*, 2004, 106, available in French on the Internet at www.globalsaleslaw.org; Landgericht Mönchengladbach, Germany, 15 July 2003, *Internationales Handelsrecht*, 2003, 229, available in German on the Internet at www.globalsaleslaw.org, available in English on the Internet at www.cisg.law.pace.edu; Amtsgericht Viechtach, Germany, 11 April 2002, *Das juristische Büro*, 2002, 429, available in German and in English on the Internet at www.cisg.law.pace.edu; Landgericht Berlin, Germany, 25 May 1999, available in German on the Internet at www.unilex.info, available in English on the Internet at www.cisg.law.pace.edu; CLOUT case No. 228 [Oberlandesgericht Rostock, Germany, 27 July 1995], *Transportrecht-Internationales Handelsrecht*, 1999, 23; CLOUT case No. 123 [Bundesgerichtshof, Germany, 8 March 1995], *Neue Juristische Wochenschrift*, 1995, 2099 (see full text of the decision); CLOUT case No. 79 [Oberlandesgericht Frankfurt a.M., Germany, 18 January 1994], *Neue Juristische Wochenschrift*, 1994, 1013 (see full text of the decision); CLOUT case No. 1 [Oberlandesgericht Frankfurt a.M., Germany, 13 June 1991], *Neue Juristische Wochenschrift*, 1991, 3102 (see full text of the decision).

³ CLOUT case No. 933 [Bundesgericht, Switzerland, 20 December 2006], *Schweizerische Zeitschrift für internationales und europäisches Recht*, 2008, 173; CLOUT case No. 907 [Tribunal cantonal du Valais, Switzerland, 27 May 2005], *Schweizerische Zeitschrift für internationales und europäisches Recht*, 2007, 152; Tribunale di Padova, Italy, 25 February 2004, *Giurisprudenza italiana*, 2004, 1405, available in Italian on the Internet at www.globalsaleslaw.org, available in English on the Internet at www.cisg.law.pace.edu; CLOUT case No. 255 [Tribunal cantonal du Valais, Switzerland, 30 June 1998], *Schweizerische Zeitschrift für internationales und europäisches Recht*, 1999, 192.

⁴ Landgericht München, Germany, 20 February 2002, *Internationales Handelsrecht*, 2003, 24, available in German on the Internet at www.globalsaleslaw.org, available in English on the Internet at www.cisg.law.pace.edu (the court noted that a commercial usage relied on by one party, according to which the price was not payable until 60 days after the invoice date, was not proven, and it stated that such a usage would be contrary to article 58).

⁵ Handelsgericht des Kantons Bern, Switzerland, 17 August 2009, available in German on the Internet at www.globalsaleslaw.org; Najvyšší súd Slovenskej republiky, Slovakia, 19 June 2008, available in Slovak on the Internet at www.globalsaleslaw.org, available in English on the Internet at www.cisg.law.pace.edu; Handelsgericht Aargau, Switzerland, 26 November 2008, available in German on the Internet at www.globalsaleslaw.org, available in English on the Internet at www.cisg.law.pace.edu; CLOUT case No. 930 [Tribunal cantonal du Valais, Switzerland, 23 May 2006]; Kantonsgericht Zug, Switzerland, 2 December 2004, *Internationales Handelsrecht*, 2006, 158, available in German on the Internet at www.globalsaleslaw.org, available in English on the Internet at www.cisg.law.pace.edu; CLOUT case No. 893 [Amtsgericht Willisau, Switzerland, 12 March 2004], *Schweizerische Zeitschrift für internationales und europäisches Recht*, 2005, 124; Tribunale di Padova, Italy, 25 February 2004, *Giurisprudenza italiana*, 2004, 1405, available in Italian on the Internet at www.globalsaleslaw.org, available in English on the Internet at www.cisg.law.pace.edu; Tribunal cantonal du Valais, Switzerland, 19 August 2003, *Revue suisse de droit international et européen*, 2004, 106, available in French on the Internet at www.globalsaleslaw.org; Landgericht Mönchengladbach, Germany, 15 July 2003, *Internationales Handelsrecht*, 2003, 229, available in German on the Internet at www.globalsaleslaw.org, available in English on the Internet at www.cisg.law.pace.edu; Kantonsgericht Schaffhausen, Switzerland, 25 February 2002, available in German on the Internet at www.cisg-online.ch, available in English on the Internet at www.cisg.law.pace.edu (the general rules in article 58 are applicable since the parties, by their conduct, waived application of the contractual conditions concerning payment as stated in the contract); Oberlandesgericht Graz, Austria, 11 March 1998, available in German on the Internet at www.globalsaleslaw.org, available in English on the Internet at www.cisg.law.pace.edu; CLOUT case No. 197 [Tribunal cantonal du Valais, Switzerland, 20 December 1994], *Revue valaisanne de jurisprudence*, 1995, 164.

⁶ CLOUT case No. 649 [Tribunale di Padova, Italy, 31 March 2004], *Giurisprudenza di merito*, 2004, 1065 (the court observed that the essential condition in CISG article 29, i.e. the agreement of the parties, was not fulfilled in this case, and then relied on the principle of *venire contra factum proprium* to give effect to an invoice entry specifying a payment date subsequent to delivery of the goods, since the seller could not, under that principle, claim immediate payment of the price); Tribunal cantonal du Valais, Switzerland, 19 August 2003, *Revue suisse de droit international et européen*, 2004, 106, available in French on the Internet at www.globalsaleslaw.org (the court relied on the payment date specified by the seller in its legal action, which was subsequent to the date resulting from application of CISG article 58); CLOUT case No. 882 [Handelsgericht des Kantons Aargau, Switzerland, 5 November 2002], *Schweizerische Zeitschrift für internationales und europäisches Recht*, 2003, 103 (the court construed the invoice entry “20 days net” as a deferment of the payment date, but did not give any further details); Kantonsgericht Schaffhausen, Switzerland, 25 February 2002, available in German on the Internet at www.cisg-online.ch, available in English on the Internet at www.cisg.law.pace.edu (the general rules in article 58 were applicable since the parties, by their conduct, waived application of the contractual conditions concerning payment as stated in the contract).

⁷ CLOUT case No. 826 [Oberlandesgericht München, Germany, 19 October 2006], *Internationales Handelsrecht*, 2007, 30 (in connection with the sale of a series of motor vehicles, payment of the price would become due when notice announcing that the vehicles were ready for delivery was given and the chassis numbers were specified).

⁸ Oberlandesgericht Braunschweig, Germany, 28 October 1999, *Transportrecht-Internationales Handelsrecht*, 2000, 4, available in German on the Internet at www.globalsaleslaw.org, available in English on the Internet at www.cisg.law.pace.edu (immediate payment on receipt of the invoice); CLOUT case No. 217 [Handelsgericht Aargau, Switzerland, 26 September 1997], *Schweizerische Zeitschrift für Internationales und Europäisches Recht*, 1998, 78, *Transportrecht-Internationales Handelsrecht*, 1999, 11 (immediate payment on receipt of the invoice, in accordance with a clause inserted in the invoice).

⁹ Kantonsgericht Zug, Switzerland, 27 November 2008, available in German on the Internet at www.globalsaleslaw.org, available in English on the Internet at www.cisg.law.pace.edu (90 days from the invoicing date); CLOUT case No. 934 [Tribunal cantonal du Valais, Switzerland, 27 April 2007], *Revue suisse de droit international et européen*, 2008, 184 (invoice payable within 60 days); CLOUT case No. 909 [Kantonsgericht von Appenzell-Ausserrhoden, Switzerland, 9 March 2006], *Schweizerische Zeitschrift für internationales und europäisches Recht*, 2007, 150 (invoice payable within 30 days); Handelsgericht des Kantons Bern, Switzerland, 22 December 2004, available in German on the Internet at www.globalsaleslaw.org, available in English on the Internet at www.cisg.law.pace.edu (price due 60 days after invoicing); Kantonsgericht Zug, Switzerland, 2 December 2004, *Internationales Handelsrecht*, 2006, 158, available in German on the Internet at www.globalsaleslaw.org, available in English on the Internet at www.cisg.law.pace.edu (payment within 14 days following issuance of the invoice); CLOUT case No. 649 [Tribunale di Padova, Italy, 31 March 2004], *Giurisprudenza di merito*, 2004, 1065 (30 days after expiry of the month of issue of the invoice, this payment term having been entered on the invoice; see, on this decision, footnote 6 *supra*); Tribunal cantonal du Valais, Switzerland, 19 August 2003, *Revue suisse de droit international et européen*, 2004, 106, available in French on the Internet at www.globalsaleslaw.org ("payment at 30 days", according to an invoice entry); Tribunal cantonal du Valais, Switzerland, 30 April 2003, *Revue suisse de droit international et européen*, 2004, 107, available in French on the Internet at www.globalsaleslaw.org (payment deadline of 30 days, according to an invoice entry); CLOUT case No. 882 [Handelsgericht des Kantons Aargau, Switzerland, 5 November 2002], *Schweizerische Zeitschrift für internationales und europäisches Recht*, 2003, 103 (payment "20 days net", according to an invoice entry). See also the following decisions, which refused to give effect to invoice entries relating to payment due dates: Najvyšší súd Slovenskej republiky, Slovakia, 30 April 2008, available in Slovak on the Internet at www.globalsaleslaw.org, available in English on the Internet at www.cisg.law.pace.edu (the invoice entry "payment 80 days" does not in itself constitute an agreement of the parties concerning the date of payment); for a similar observation, Najvyšší súd Slovenskej republiky, Slovakia, 27 June 2007, available in Slovak on the Internet at www.globalsaleslaw.org, available in English on the Internet at www.cisg.law.pace.edu.

¹⁰ CLOUT case No. 360 [Amtsgericht Duisburg, Germany, 13 April 2000], *Internationales Handelsrecht*, 2001, 114 (calendar day indicated on the invoice).

¹¹ U.S. District Court, Southern District of New York, United States, 29 May 2009 (*Doolim Corp. v. R. Doll, LLC et al.*), available in English on the Internet at www.cisg.law.pace.edu (payment within 15 days from receipt of the garments); CLOUT case No. 1020 [Foreign Trade Court of Arbitration at the Serbian Chamber of Commerce, Serbia, 28 January 2009], available in English on the Internet at www.cisg.law.pace.edu (45 days after delivery); CLOUT case No. 591 [Oberlandesgericht Düsseldorf, Germany, 28 May 2004], *Internationales Handelsrecht*, 2004, 203 (five days after delivery); Handelsgericht St. Gallen, Switzerland, 29 April 2004, *Schweizerische Zeitschrift für internationales und europäisches Recht*, 2005, 121, available in German on the Internet at www.globalsaleslaw.org, available in English on the Internet at www.cisg.law.pace.edu (30 per cent of the price prior to delivery, 70 per cent within 30 days of delivery); CLOUT case No. 882 [Handelsgericht Aargau, Switzerland, 5 November 2002], *Internationales Handelsrecht*, 2003, 178 (payment 20 days net, this invoice entry having been construed by the court as a deferment of the due date).

¹² Hovioikeus/hovrätt Helsinki, Finland, 31 May 2004, case presentation in English at www.cisg.law.pace.edu (seven days after receipt of the documents).

¹³ CLOUT case No. 883 [Kantonsgericht von Appenzell Ausserrhoden, Switzerland, 10 March 2003], *Internationales Handelsrecht*, 2004, 254 (price payable 14 days before delivery to the buyer).

¹⁴ Landgericht Krefeld, Germany, 20 September 2006, *Internationales Handelsrecht*, 2007, 161, available in German on the Internet at www.globalsaleslaw.org, available in English on the Internet at www.cisg.law.pace.edu (price payable 85 days after delivery of the goods on board the vessel in a CFR sale).

¹⁵ Arbitration Court of the International Chamber of Commerce, France, 2003 (Arbitral award No. 11849), Albert Jan van den Berg (ed.), *Yearbook Commercial Arbitration*, vol. XXXI, 2006, 148, available in English on the Internet at www.cisg.law.pace.edu.

¹⁶ China International Economic and Trade Arbitration Commission, People's Republic of China, 21 February 2005, available in English on the Internet at www.globalsaleslaw.org.

¹⁷ U.S. District Court, Northern District of Alabama, United States, 27 April 2005 (*Treibacher Industrie A.G. v. TDY Industries, Inc.*), available in English on the Internet at www.cisg.law.pace.edu (following withdrawal of the goods from stock, the buyer had to report such withdrawal to the seller, the price then being payable on receipt of the invoice).

¹⁸ Landgericht Nürnberg-Fürth, Germany, 27 February 2003, *Internationales Handelsrecht*, 04, 20, available in German on the Internet at www.globalsaleslaw.org.

¹⁹ Foreign Trade Court of Arbitration at the Serbian Chamber of Commerce, Serbia 28 January 2009, available in English on the Internet at www.cisg.law.pace.edu (the time limit of 45 days following delivery, as provided for in the contract, was computed from when the goods were delivered on board the vessel, in accordance with the CIP Tirana clause); Landgericht Krefeld, Germany, 20 September 2006, *Internationales Handelsrecht*, 2007, 161, available in German on the Internet at www.globalsaleslaw.org, available in English on the Internet at www.cisg.law.pace.edu (price payable 85 days after delivery of the goods on board the vessel under a CFR sale).

²⁰ CLOUT case No. 194 [Bundesgericht, Switzerland, 18 January 1996] (see full text of the decision); see also Polimeles Protodikio Athinon, Greece, 2009, English abstract available on the Internet at www.cisg.law.pace.edu (40 per cent of the price in advance, the balance being payable 30 days after receipt of the invoice for each of the instalment deliveries); Oberlandesgericht Köln, Germany, 3 April 2006, available in German on the Internet at www.globalsaleslaw.org, available in English on the Internet at www.cisg.law.pace.edu (25 per cent on conclusion of the contract and 75 per cent two weeks before the first delivery); Oberster Gerichtshof, Austria, 8 November 2005, *Österreichische*

Juristen-Zeitung, 2006, 162, available in German on the Internet at www.globalsaleslaw.org, available in English on the Internet at www.cisg.law.pace.edu (20 per cent as an advance payment, 60 per cent on delivery or on notice of delivery and 20 per cent on start-up of the equipment); Handelsgericht St. Gallen, Switzerland, 11 February 2003, *Schweizerische Zeitschrift für internationales und europäisches Recht*, 2004, 107, available in German on the Internet at www.globalsaleslaw.org, available in English on the Internet at www.cisg.law.pace.edu (50 per cent of the price payable 60 days after receipt of the goods and 50 per cent of the price payable 90 days after issuance of the invoice by the buyer to its customer); CLOUT case No. 882 [Handelsgericht Aargau, Switzerland, 5 November 2002], *Schweizerische Zeitschrift für internationales und europäisches Recht*, 2003, 103, available on the Internet at www.cisg-online.ch (payment 20 days net).

²¹ CLOUT case No. 297 [Oberlandesgericht München, Germany, 21 January 1998], *Internationales Handelsrecht*, 2001, 197.

²² CLOUT case No. 5 [Landgericht Hamburg, Germany, 26 September 1990], *Europäische Zeitschrift für Wirtschaftsrecht*, 1991, 188.

²³ CLOUT case No. 591 [Oberlandesgericht Düsseldorf, Germany, 28 May 2004], *Internationales Handelsrecht*, 2004, 203.

²⁴ See Obergericht Kanton Zug, Switzerland, 5 March 2013, *Internationales Handelsrecht* 2014, 149 = CISG-online No. 2471.

²⁵ See paragraph 7 *infra*.

²⁶ Hovioikeus/hovrätt Helsinki, Finland, 31 May 2004, case available in English at www.cisg.law.pace.edu.

²⁷ See the Digest for article 34.

²⁸ CLOUT case No. 171 [Bundesgerichtshof, Germany, 3 April 1996], *Neue Juristische Wochenschrift*, 1996, 2364.

²⁹ CLOUT case No. 216 [Kantonsgericht St. Gallen, Switzerland, 12 August 1997].

³⁰ See paragraphs 8 and 9 *infra*.

³¹ CLOUT case No. 432 [Landgericht Stendal, Germany, 12 October 2000], *Internationales Handelsrecht*, 2001, 30.

³² See paragraphs 8 and 9 *infra*.

³³ See, however, CLOUT case No. 432 [Landgericht Stendal, Germany, 12 October 2000], *Internationales Handelsrecht*, 2001, 30 (ruling, in connection with article 58, by reference to article 38, that a two-month period for examination was reasonable).

³⁴ Oberster Gerichtshof, Austria, 8 November 2005, *Österreichische Juristen-Zeitung*, 2006, 162, available in German on the Internet at www.globalsaleslaw.org, available in English on the Internet at www.cisg.law.pace.edu.

³⁵ Bundesgerichtshof, Germany, 21 January 2015, *Internationales Handelsrecht* 2015, 101.

³⁶ *Ibid.*