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COMPILATION OF LEGISLATIVE TEXTS APPROVED BY  
THE WORKING GROUP AT ITS FIRST FOUR SESSIONS

Note by the Secretariat

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## INTRODUCTION

The following compilation sets forth the legislative texts resulting from the examination of the Uniform Law for the International Sale of Goods by the UNCITRAL Working Group in its first four sessions. The text of articles 1-17 is taken from annex III to the report of the Working Group on its third session (January 1972; A/CN.9/62/Add.2). The text of articles 18-59 is taken from annex I to the report on the Working Group's fourth session (January-February 1973; A/CN.9/75). For ease in reference, headings have been inserted by the Secretariat.

### UNIFORM LAW ON THE INTERNATIONAL SALE OF GOODS

#### Chapter I. Sphere of application of the law

##### Article 1

1. The present Law shall apply to contracts of sale of goods entered into by parties whose places of business are in different States:

(a) When the States are both Contracting States; or

(b) When the rules of private international law lead to the application of the law of a Contracting State.

2. The fact that the parties have their places of business in different States shall be disregarded whenever this fact does not appear either from the contract or from any dealings between, or from information disclosed by the parties at any time before or at the conclusion of the contract.] \*

3. The present Law shall also apply where it has been chosen as the law of the contract by the parties.

##### Article 2

The present Law shall not apply to sales:

1. (a) Of goods of a kind and in a quantity ordinarily bought by an individual for personal, family or household use, unless it appears from the contract or from any dealings between, or from information disclosed by the parties at any time before or at the conclusion of the contract] that they are bought for a different use.

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\* Square brackets indicate that no final decision was taken by the Working Group on provisions so bracketed.

- (b) By auction;
  - (c) On execution or otherwise by authority of law.
2. Neither shall the present Law apply to sales:
- (a) Of stocks, shares, investment securities, negotiable instruments or money;
  - (b) Of any ship, vessel or aircraft which is registered or is required to be registered;
  - (c) Of electricity.

### Article 3

1. The present Law shall not apply to contracts where the obligations of the parties are substantially other than the delivery of and payment for goods.
2. Contracts for the supply of goods to be manufactured or produced shall be considered to be sales within the meaning of the present Law, unless the party who orders the goods undertakes to supply an essential and substantial part of the materials necessary for such manufacture or production.

### Article 4

For the purpose of the present Law:

- (a) Where a party has places of business in more than one State, his place of business shall be his principal place of business, unless another place of business has a closer relationship to the contract and its performance, having regard to the circumstances known to or contemplated by the parties at the time of the conclusion of the contract;
- (b) Where a party does not have a place of business, reference shall be made to his habitual residence;
- (c) Neither the nationality of the parties nor the civil or commercial character of the parties or the contract shall be taken into consideration;
- (d) A "Contracting State" means a State which is Party to the Convention dated ... relating to ... and has adopted the present Law without any reservation declaration that would preclude its application to the contract;
- (e) Any two or more States shall not be considered to be different States if a declaration to that effect made under article II of the Convention dated ... relating to ... is in force in respect of them.

/...

Article 5

The parties may exclude the application of the present Law or derogate from or vary the effect of any of its provisions.

Article 6

(Transferred to article 3, paragraph 2)\*

Article 7

(Transferred to article 4 (c))

Article 8

The present Law shall govern only the obligations of the seller and the buyer arising from a contract of sale. In particular, the present Law shall not, except as otherwise expressly provided therein, be concerned with the formation of the contract, nor with the effect which the contract may have on the property in the goods sold, nor with the validity of the contract or of any of its provisions or of any usage. (Unchanged)

Chapter II. General provisions

Article 9

1. The parties shall be bound by any usage which they have expressly or impliedly made applicable to their contract and by any practices which they have established between themselves.
2. The usages which the parties shall be considered as having impliedly made applicable to their contract shall include any usage of which the parties are aware and which in international trade is widely known to, and regularly observed by parties to contracts of the type involved, or any usage of which the parties should be aware because it is widely known in international trade and which is regularly observed by parties to contracts of the type involved.
3. In the event of conflict with the present Law, such usages shall prevail unless otherwise agreed by the parties.

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\* Such parenthetical references relate to action with respect to provisions of the Uniform Law on the International Sale of Goods (ULIS) annexed to the Hague Convention of 1 July 1964.

4. Where expressions, provisions or forms of contract commonly used in commercial practice are employed, they shall be interpreted according to the meaning widely accepted and regularly given to them in the trade concerned unless otherwise agreed by the parties.

Article 10

For the purposes of the present Law, a breach of contract shall be regarded as fundamental wherever the party in breach knew, or ought to have known, at the time of the conclusion of the contract, that a reasonable person in the same situation as the other party would not have entered into the contract if he had foreseen the breach and its effects.

Article 11

Where under the present Law an act is required to be performed "promptly", it shall be performed within as short a period as is practicable in the circumstances.

Article 12

(Deleted)

Article 13

(Deleted)

Article 14

Communications provided for by the present Law shall be made by the means usual in the circumstances. (Unchanged)

Article 15

A contract of sale need not be evidenced by writing and shall not be subject to any other requirements as to form. In particular, it may be proved by means of witnesses.

Article 16

Where under the provisions of the present Law one party to a contract of sale is entitled to require performance of any obligation by the other party, a court shall not be bound to enter or enforce a judgement providing for specific performance except in accordance with the provisions of article VII of the Convention dated the 1st day of July 1964 relating to a Uniform Law on the International Sale of Goods. (Unchanged)

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Article 17

In interpreting and applying the provisions of this Law, regard shall be had to its international character and to the need to promote uniformity in its interpretation and application.

Chapter III. Obligations of the seller

Section I. Performance of the contract by the seller

Article 18

The seller shall deliver the goods, hand over any documents relating thereto and transfer the property in the goods, as required by the contract and the present Law.

Article 19

(Deleted)

Article 20

Delivery shall be effected:

(a) Where the contract of sale involves the carriage of goods, by handing the goods over to the carrier for transmission to the buyer;

(b) Where, in cases not within the preceding paragraph, the contract relates to specific goods or to unascertained goods to be drawn from a specific stock or to be manufactured or produced and the parties knew that the goods were to be manufactured or produced at a particular place at the time of the conclusion of the contract, by placing the goods at the buyer's disposal at that place;

(c) In all other cases by placing the goods at the buyer's disposal at the place where the seller carried on business at the time of the conclusion of the contract or, in the absence of a place of business, at his habitual residence.

Article 21

1. If the seller is bound to deliver the goods to a carrier, he shall make, in the usual way and on the usual terms, such contracts as are necessary for the carriage of the goods to the place fixed. Where the goods are not clearly marked with an address or otherwise appropriated to the contract, the seller shall send the buyer notice of the consignment and, if necessary, some document specifying the goods.

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2. If the seller is not bound by the contract to effect insurance in respect of the carriage of the goods, he shall provide the buyer, at his request, with all information necessary to enable him to effect such insurance.

Article 22

The seller shall deliver the goods:

- (a) If a date is fixed or determinable by agreement or usage, on that date;  
or
- (b) If a period (such as a stated month or season) is fixed or determinable by agreement or usage, within that period on a date chosen by the seller unless the circumstances indicate that the buyer is to choose the date; or
- (c) In any other case, within a reasonable time after the conclusion of the contract.

Article 23

Where the contract or usage requires the seller to deliver documents relating to the goods, he shall tender such documents at the time and place required by the contract or by usage.

Articles 24-32

(Incorporated into articles 41-48)

Article 33

1. The seller shall deliver goods which are of the quantity and quality and description required by the contract and contained or packaged in the manner required by the contract and which, where not inconsistent with the contract,

(a) Are fit for the purposes for which goods of the same description would ordinarily be used;

(b) Are fit for any particular purpose expressly or impliedly made known to the seller at the time of contracting, except where the circumstances show that the buyer did not rely, or that it was unreasonable for him to rely, on the seller's skill and judgement;

(c) Possess the qualities of goods which the seller has held out to the buyer as a sample or model;

(d) Are contained or packaged in the manner usual for such goods.

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2. The seller shall not be liable under subparagraphs (a) to (d) of the preceding paragraph for any defect if at the time of contracting the buyer knew, or could not have been unaware of, such defect.

Article 34

(Deleted)

Article 35

1. The seller shall be liable in accordance with the contract and the present Law for any lack of conformity which exists at the time when the risk passes, even though such lack of conformity becomes apparent only after that time. /However, if risk does not pass because of a declaration of avoidance of the contract or of a demand for other goods in replacement, the conformity of the goods with the contract shall be determined by their condition at the time when risk would have passed had they been in conformity with the contract./

2. The seller shall also be liable for any lack of conformity which occurs after the time indicated in paragraph 1 of this article and is due to a breach of any of the obligations of the seller, including a breach of an express guarantee that the goods will remain fit for their ordinary purpose or for some particular purpose, or that they will retain specified qualities or characteristics for a specified period.

Article 36

(Incorporated into article 33)

Article 37

If the seller has delivered goods before the date for delivery he may, up to that date, deliver any missing part or quantity of the goods or deliver other goods which are in conformity with the contract or remedy any defects in the goods delivered, provided that the exercise of this right does not cause the buyer either unreasonable inconvenience or unreasonable expense. The buyer shall, however, retain the right to claim damages as provided in article 82.

Article 38

1. The buyer shall examine the goods, or cause them to be examined, promptly.
2. In the case of carriage of the goods, examination may be deferred until the goods arrive at the place of destination.

/...

3. If the goods are redispached by the buyer without a reasonable opportunity for examination by him and the seller knew or ought to have known at the time, when the contract was concluded, of the possibility of such redispach, examination of the goods may be deferred until they arrive at the new destination.

#### Article 39

1. The buyer shall lose the right to rely on a lack of conformity of the goods if he has not given the seller notice thereof within a reasonable time after he has discovered the lack of conformity or ought to have discovered it. If a defect which could not have been revealed by the examination of the goods provided for in article 38 is found later, the buyer may none the less rely on that defect, provided that he gives the seller notice thereof within a reasonable time after its discovery. In any event, the buyer shall lose the right to rely on a lack of conformity of the goods if he has not given notice thereof to the seller within a period of two years from the date on which the goods were handed over, unless the lack of conformity constituted a breach of a guarantee covering a longer/different period.

2. In giving notice to the seller of any lack of conformity the buyer shall specify its nature.

3. Where any notice referred to in paragraph 1 of this article has been sent by letter, telegram or other appropriate means, the fact that such notice is delayed or fails to arrive at its destination shall not deprive the buyer of the right to rely thereon.

#### Article 40

The seller shall not be entitled to rely on the provisions of articles 38 and 39 if the lack of conformity relates to facts of which he knew, or of which he could not have been unaware, and which he did not disclose.\*

### Section II. Remedies for breach of contract by the seller

#### Article 41

1. Where the seller fails to perform any of his obligations under the contract of sale and the present Law, the buyer may:

- (a) Exercise the rights provided in articles 42 to 46;
- (b) Claim damages as provided in article 82 or articles 84 to 87.

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\* See the foot-note to section III: transfer of property, and to article 52, below, with respect to the possible insertion of article 52 following article 40.

2. In no case shall the seller be entitled to apply to a court or arbitral tribunal to grant him a period of grace.

Article 42

1. The buyer has the right to require the seller to perform the contract to the extent that specific performance could be required by the court under its own law in respect of similar contracts of sale not governed by the Uniform Law, unless the buyer has acted inconsistently with that right by avoiding the contract under article 44 or, by reducing the price under article 45 /or by notifying the seller that he will himself cure the lack of conformity/.

2. However, where the goods do not conform with the contract, the buyer may require the seller to deliver substitute goods only when the lack of conformity constitutes a fundamental breach and after prompt notice.

Article 43

Where the buyer requests the seller to perform, the buyer may fix an additional period of time of reasonable length for delivery or for curing of the defect or other breach. If the seller does not comply with the request within the additional period, or where the buyer has not fixed such a period, within a period of reasonable time, or if the seller already before the expiration of the relevant period of time declares that he will not comply with the request, the buyer may report to any remedy available to him under the present law.

Article /43 bis/

1. The seller may, even after the date for delivery, cure any failure to perform his obligations, if he can do so without such delay as will amount to a fundamental breach of contract and without causing the buyer unreasonable inconvenience or unreasonable expense, unless the buyer has declared the contract avoided in accordance with article 44 or the price reduced in accordance with article 45 /or has notified the seller that he will himself cure the lack of conformity/.

2. If the seller requests the buyer to make known his decision under the preceding paragraph, and the buyer does not comply within a reasonable time, the seller may perform provided that he does so before the expiration of any time indicated in the request, or if no time is indicated, within a reasonable time. Notice by the seller that he will perform within a specified period of time shall be presumed to include a request under the present paragraph that the buyer make known his decision.

Article 44

1. The buyer may by notice to the seller declare the contract avoided:

/...

(a) Where the failure by the seller to perform any of his obligations under the contract of sale and the present law amounts to a fundamental breach of contract, or

(b) Where the seller has not delivered the goods within an additional period of time fixed by the buyer in accordance with article 43.

2. The buyer shall lose his right to declare the contract avoided if he does not give notice thereof to the seller within a reasonable time:

(a) Where the seller has not delivered the goods /or documents/ on time, after the buyer has been informed that the goods /or documents/ have been delivered late or has been requested by the seller to make his decision under article /43 bis, paragraph 2/;

(b) In all other cases, after the buyer has discovered the failure by the seller to perform or ought to have discovered it, or, where the buyer has requested the seller to perform, after the expiration of the period of time referred to in article 43.

#### Article 45

Where the goods do not conform with the contract, the buyer may declare the price to be reduced in the same proportion as the value of the goods at the time of contracting has been diminished because of such non-conformity.

#### Article 46

1. Where the seller has handed over part only of the goods or an insufficient quantity or where part only of the goods handed over is in conformity with the contract, the provisions of articles /43, 43 bis, and 44/ shall apply in respect of the part or quantity which is missing or which does not conform with the contract.

2. The buyer may declare the contract avoided in its entirety only if the failure to effect delivery completely and in conformity with the contract amounts to a fundamental breach of the contract.

#### Article 47

1. Where the seller tenders delivery of the goods before the date fixed, the buyer may take delivery or refuse to take delivery.

2. Where the seller has proffered to the buyer a quantity of goods greater than that provided for in the contract, the buyer may reject or accept the excess quantity. If the buyer rejects the excess quantity, the seller shall be liable only for damages in accordance with article 82. If the buyer accepts the whole or part of the excess quantity, he shall pay for it at the contract rate.

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Article 48

The buyer may exercise the rights provided in articles 43 to 46, even before the time fixed for delivery, if it is clear that goods which would be handed over would not be in conformity with the contract.

Article 49

(Deleted)

Article 50

(Transferred to article 23)

Article 51

(Deleted)

Section III. Transfer of property\*

Article 52\*

1. The seller shall deliver goods which are free from the right or claim of a third person, unless the buyer agreed to take the goods subject to such right or claim.

2. Unless the seller already knows of the right or claim of the third person, the buyer may notify the seller of such right or claim and request that within a reasonable time the goods shall be freed therefrom or other goods free from all rights or claims of third persons shall be delivered to him by the seller. Failure by the seller within such period to take appropriate action in response to the request shall amount to a fundamental breach of contract.

Article 53

(Deleted)

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\* In view of decisions by the Working Group at its fourth session to unify the substantive duties of the seller (section I of chapter III) and the remedies for breach of contract by the seller (section II of chapter III), the Working Group may wish to transfer article 52 to section I, possibly following article 40. In this event, a separate section heading for article 52 may not be necessary.

Article 54

(Transferred to article 21)

Article 55

(Incorporated into articles 41-48)

Chapter IV. Obligations of the buyer

Section I. Performance of the contract by the buyer

Article 56

The buyer shall pay the price for the goods and take delivery of them as required by the contract and the present law.

Article 57

Where a contract has been concluded but does not state a price or expressly or impliedly make provision for the determination of the price of the goods, the buyer shall be bound to pay the price generally charged by the seller at the time of contracting; if no such price is ascertainable, the buyer shall be bound to pay the price generally prevailing for such goods sold under comparable circumstances at that time.

Article 58

[Where the price is fixed according to the weight of the goods, it shall, in case of doubt, be determined by the net weight.]

Article 59

1. The buyer shall pay the price to the seller at the seller's place of business or, if he does not have a place of business, at his habitual residence, or, where the payment is to be made against the handing over of the goods or of documents, at the place where such handing over takes place.
2. Where, in consequence of a change in the place of business or habitual residence of the seller subsequent to the conclusion of the contract, the expenses incidental to payment are increased, such increase shall be borne by the seller.\*

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\* At the fourth session the Working Group did not consider further articles which might be added to section I: performance of the contract by the buyer, or provisions which might be included in section II: remedies for breach of contract by the buyer.