

Kröll / Mistelis / Perales Viscasillas (eds)

UN Convention on Contracts  
for the International  
Sale of Goods (CISG)

Commentary

C. H. Beck · Hart · Nomos

# UN Convention on Contracts for the International Sale of Goods (CISG)

edited by

**Stefan Kröll**

**Loukas Mistelis**

**Pilar Perales Viscasillas**

**C.H.Beck · Hart · Nomos**

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**Kröll/Mistelis/Perales Viscasillas (eds)**  
**UN Convention on Contracts for the International Sale of Goods (CISG)**

## Foreword

There is hardly any need to provide a justification for a new commentary on such an important topic as the United Nations Convention on Contracts for the International Sales of Goods (“Vienna Convention” or “CISG”). The Convention was signed in 1980, currently has 76 Contracting States and is potentially applicable to up to two thirds of international trade in goods; sales contracts are a daily occurrence in international commerce.

There are many good publications on the topic, predominately in continental Europe or the United States, but we do hope that this commentary offers some new dimensions. First, this commentary aims to be an international approach to the CISG: it brings together authors from fifteen countries in four continents with a wide range of profound academic and practical expertise. They include some very well established names in the field and few very promising newcomers. Second, the coverage is consistent in addressing the general principles and drafting history of each article before providing a detailed commentary and discussion of comparable rules in other instruments, namely the UNIDROIT Principles of International Commercial Contracts (“PICC”), the Principles of European Contract Law (“PECL”) and the Draft Common Frame of Reference (“DCFR”), as well as Incoterms 2010 where necessary. Finally, this commentary highlights all the main commercial law aspects of international sales as well as covering civil law dimensions. Private international law and “procedural” aspects, such as burden of proof, are also consistently addressed. While we reflect on the doctrinal discussion on the CISG, we have made every effort to also be practical and give due regard to case law with the hope to make this a book useful for both academics and practitioners.

The three editors got to know each other and become friends through the Willem C Vis International Commercial Arbitration Moot. It has been a great experience to work with one another and solidify a long-standing academic friendship. The editors have a strong interest in international sales ignited and supported by a number of mentors and friends; these include Professor Eric Bergsten, the late Professor Albert Kritzer and the late Professor Oskar Hartwig. Warm thanks and appreciation are due to them for the enthusiastic and professional way in which they inspired us to work in this area of international commercial law.

Thanks are also due to all contributors for their submissions and embracing the project with great motivation, drive and the necessary regard to the international application of the CISG and the need to promote uniformity in the application of the Convention. They have all worked to keep the project alive and bring it to fruition. Friendships were enhanced and strengthened through this project. Deadlines are not easy to keep in such large-scale projects but the gestation of the book remained within set targets and every effort was made to state the law as of December 2010.

We also want to extend our thanks to our publisher and in particular, Dr Wilhelm Warth who patiently encouraged us through deadlines and spared no effort to ensure the quality of editing and publishing one would expect from Beck.

The editing co-ordination and the lion share of language and consistency editing fell on John Ribeiro, at the School of International Arbitration Queen Mary Univer-

## *Foreword*

sity of London. We thank him for the dedication, commitment and contribution to this publication.

We hope you find this commentary useful and we are happy to receive any feedback. A book is almost never perfect in its first edition so any suggestions for improvement in future editions are welcome and may be sent to any of three editors or to the following email address: [wilhelm.warth@beck.de](mailto:wilhelm.warth@beck.de).

SK, LM and PPV  
Cologne, London and Madrid  
March 2011

## How to use this Commentary

To make the commentary as user-friendly as possible the comments on each article follow the same structure. The first part (I) gives a short overview on the content of the article, its drafting history and its role in the context of the CISG where appropriate. The second part (II) contains the detailed commentary of the article while the third part (III) contains references to comparable rules in other legal instruments which may be useful in interpreting and applying the article

There is wealth of resources relating to the CISG. We have made every effort to ensure that all major authorities are referred to, but in a fashion which keeps the book in a manageable size and points the user to readily available online resources. In particular:

- Often cited sources are listed in the abbreviated bibliography section and hence in the commentary only the names of the authors and short titles are listed in the footnotes; moreover, whenever articles are also available through the Pace University Albert H Kritzer CISG Database ([www.cisg.law.pace.edu](http://www.cisg.law.pace.edu)) we have indicated that through the following reference: (Pace)
- We do not use the full citation of judicial decisions or arbitration awards where there is a freely accessible online publication of the same: in such cases, we refer wherever appropriate to the case with the number provided by the CISG Online database maintained by the Global Sales Law project of the University of Basel (<http://www.globalsaleslaw.org/index.cfm?pageID=28>) and indicate if an English translation of the case exists on the Pace University Albert H Kritzer CISG Database ([www.cisg.law.pace.edu](http://www.cisg.law.pace.edu)) by the reference: (Pace). Full texts and English translations (typically through the Queen Mary Translation Programme) are readily available on these free access databases. As both of them are very user-friendly and cases can easily be retrieved by the date of the decisions, we have refrained from giving the exact web-address for every case.

There are a few very good free access databases on the CISG. These include:

- The award winning Albert H Kritzer CISG Database: <http://www.cisg.law.pace.edu/> (comprehensive collection of case law, academic commentary, guides and an article-by-article collection of resources)
- CISG Online: <http://www.globalsaleslaw.org/index.cfm?pageID=28>
- CISG Advisory Council: <http://www.cisgac.com/>  
UNCITRAL: [www.uncitral.org](http://www.uncitral.org) and more specifically: [http://www.uncitral.org/uncitral/en/case\\_law/digests/cisg2008.html](http://www.uncitral.org/uncitral/en/case_law/digests/cisg2008.html) (CISG Digest) and [http://www.uncitral.org/uncitral/en/case\\_law/abstracts.html](http://www.uncitral.org/uncitral/en/case_law/abstracts.html) (CLOUT abstracts)
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and autonomous network: <http://www.cisg.law.pace.edu/network.html#cp>





## List of Contributors

### Yesim M. Atamer

Yesim M. Atamer (LLB, LL.M, PhD, Istanbul University) is Associate Professor of Private Law and Comparative Private Law and Vice Director of the European Institute at Istanbul Bilgi University. [Arts 79–80]

### Ivo Bach

Dr Ivo Bach is a junior lecturer at Johannes Gutenberg University Mainz. He publishes and teaches in the fields of international trade law, conflict of laws, law of obligations and procedural law including arbitration. [Arts 50–52]

### Gary F. Bell

Gary F. Bell is Director of the Asian Law Institute (ASLI) and an Associate Professor at the National University of Singapore (N.U.S.). He received a degree in theology from Université Laval, degrees in civil law and common law from McGill University and in American law (LL.M.) from Columbia University. He teaches and researches in the fields of comparative law, the law of sale and Indonesian law. [Arts 61–65]

### Andrea K. Björklund

Andrea K. Björklund (J.D. (Yale), M.A. (N.Y.U.), B.A. (Nebraska)) is Professor of Law at the University of California, Davis. She specializes in the transnational regulation of investment and trade and particularly in investor-state arbitration. [Arts 25–29]

### Stavros Brekoulakis

Dr Stavros Brekoulakis (LLB, LL.M, PhD) is a Senior Lecturer in International Dispute Resolution and Private International Law at Queen Mary University of London. His legal expertise and academic work focuses on Commercial Law, International Arbitration and Conflict of Laws. [Art. 10]

### Michael Bridge

Michael Bridge is the Cassel Professor of Commercial Law at the London School of Economics. He has previously held chairs at McGill University, the University of Nottingham and UCL. He is the author of books on the Sale of Goods, the International sale of Goods and Personal Property Law, and is the co-author of books on Personal Property Security and International sale of Goods in the Conflict of Laws, as well as being the general editor of Benjamin's Sale of Goods. [Arts 81–84]

### Petra Butler

Dr jur Petra Butler LL.M (VUW) is a senior lecturer at Victoria University Law School, Wellington, and the Associate Director of the New Zealand Centre of Public Law. One focus of her research is international commercial contracts and she has published a book (together with Professor Peter Schlechtriem) and numerous articles on the CISG. She consults regularly on the CISG and private international law issues for the Government and private law firms. [Arts 53–60, jointly with Arjun Harindranath]

### Milena Djordjević

Milena Djordjević, LL.B (U. Belgrade), LL.M (U. Pittsburgh) is a lecturer at the University of Belgrade Faculty of Law where she teaches International Commercial Law, EU Trade Policy, Law of the WTO and Legal English. She also does consulting work for domestic companies, institutions and international organizations including the USAID, GTZ and IFC. [Art. 4]

### Johan Erauw

Johan Erauw teaches law at Ghent (Belgium) and in Washington DC focusing on conflicts law and international litigation. He works in Belgian private international law (authoring a 900 page handbook in 2009), business transactions, technology licensing, art law and is active in commercial arbitration worldwide. [Arts 66–67, 70]

**Franco Ferrari**

Professor Ferrari, formerly Legal Officer at the United Nations Office of Legal Affairs, International Trade Law Branch (UNCITRAL) and professor of law at Tilburg University School of Law (the Netherlands) and Bologna University School of Law (Italy), is professor of law at Verona University School of Law (on leave) and Professor of Law and Executive Director of the Center for Transnational Litigation and Commercial Law at NYU School of Law. [*pre Arts 14–24; Arts 14–24*]

**John Gotanda**

John Gotanda is Dean and Professor of Law at Villanova University School of Law. He is a member of Advisory Council of the United Nations Conventions on Contracts for the International Sale of Goods. His research focuses on international arbitration and damages. [*Arts 74–78*]

**Arjun Harindranath**

Arjun Harindranath has a BA (1st class hon) in philosophy and an LLB from Victoria University of Wellington. He now lives as a writer in India. [*Arts 53–60, jointly with Petra Butler*]

**Johnny Herre**

Johnny Herre is a justice at the Supreme Court of Sweden. He received a degree in economics and business administration from the Stockholm School of Economics (SSE), a degree in law from Stockholm University and a PhD in civil law from the SSE. Before joining the Supreme Court in 2010, he was a Professor in civil law at the SSE, teaching and researching in the fields of contract law, the law of obligations and international trade law. [*Arts 89–101*]

**Peter Huber**

Peter Huber is professor of Law at Johannes Gutenberg University Mainz (Germany) where he has held the chair for private law, conflict of laws and comparative law since 2000. He publishes in private law, international arbitration and international commercial law. [*Arts 45–49*]

**Stefan Kröll**

Stefan Kröll is a lawyer in Cologne and a Visiting Lecturer at Bucerius Law School (CISG/Litigation/Arbitration). He received his education at the Universities of Marburg, Geneva and Cologne, holds a LL.M. from the University of London (LSE) and a doctorate from the University of Cologne ([www.rechtsanwalt-kroell.de](http://www.rechtsanwalt-kroell.de)). [*Introduction, jointly with Loukas Mistelis and Pilar Perales Viscasillas, pre Arts 35–44; Arts 35–44*]

**Loukas Mistelis**

Loukas Mistelis is the Clive M Schmitthoff Professor of Transnational Commercial Law and Arbitration and the Director of the School of International Arbitration, Centre for Commercial Law Studies, Queen Mary University of London. He also teaches at NYU in London. He was educated at Athens (LLB), Strasbourg, Hannover (MLE and Dr iuris), and Keio. He regularly sits as an arbitrator. He has published extensively in international commercial law, private international law, comparative law and international arbitration. [*Introduction, jointly with Stefan Kröll and Pilar Perales Viscasillas; Preamble; Art. 1; Art. 3, jointly with Anjanette Raymond; Art. 5, jointly with John Ribeiro; Art. 6*]

**Pilar Perales Viscasillas**

Pilar Perales Viscasillas is the Chair of Commercial Law at the University Carlos III of Madrid and formerly Chair of Commercial Law at La Rioja University. Of Counsel at Baker & McKenzie. She is a member of the CISG Advisory Council, Spanish delegate at UNCITRAL and Observer for the third edition of the UNIDROIT Principles. She is also Co-Director of the Madrid Moot and author of several books and articles in international commercial contracts and arbitration. [*Introduction, jointly with Stefan Kröll and Loukas Mistelis; Arts 7, 9, 11–13*]

**Burghard Piltz**

Professor Dr Piltz studied law at Münster, Munich, Buenos Aires and London. He is Senior-Partner at Brandi Dröge Piltz Suderow & Gronemeyer Rechtsanwälte and since 1997 Professor honoris causae at the University of Bielefeld, Germany. His areas of expertise and publications include International Sales and related transactions, INCOTERMS, Private International Law and International Uniform Law; Latin American Law, in particular Argentinian Law. [*Arts 30–34*]

**Anjanette Raymond**

Anjanette (Angie) Raymond is a lecturer in International Commercial Law the Centre for Commercial Law Studies, Queen Mary University of London. Angie has written widely in both international arbitration and international commercial law as well as co-coaching the QMUL Vis Moot team. Angie is the former research assistant to the US delegate to UNCITRAL and the Reporter for the revisions of the sales and leases articles of the UCC. [Art. 3, jointly with Loukas Mistelis; Arts 68–69]

**John Ribeiro**

John Ribeiro is a research assistant at the School of International Arbitration, Queen Mary University of London. He holds a BA in East Asian Studies and a masters degree in international public policy from Osaka University (Japan) where he is a Ph.D. candidate writing on international commercial arbitration. He has authored and is editor for publications in both English and Japanese. [Art. 5, jointly with Loukas Mistelis]

**Djakhongir Saidov**

Dr Djakhongir Saidov is a Senior Lecturer in Law in the Birmingham Law School, University of Birmingham (UK). His research and teaching interests lie in international commercial law and law relating to international oil and gas operations. [Arts 71–73]

**Hiroo Sono**

Hiroo Sono is Professor of Law at Hokkaido University, Japan. He is also a member of the CISG Advisory Council and a member of the Japanese delegation to UNCITRAL Working Group VI on security interests. [Arts 85–88]

**Frank Spohnheimer**

Dr Frank Spohnheimer is a Lecturer at Saarland University and at the University of Kaiserslautern (both Germany). He teaches civil law, civil procedure and international business transactions and focuses in his research on international commercial arbitration, conflict of laws and the CISG. [Art. 2; Index]

**Alberto L. Zuppi**

Alberto L. Zuppi, JD Universidad Buenos Aires, PhD Universität des Saarlandes, is former Robert & Pamela Martin Associate Professor of Law, Paul M. Hebert Law Center, Louisiana State University, and Professor of International Business Transactions at Europa-Institut, Universität des Saarlandes, Universidad de Buenos Aires and Universidad Austral, Buenos Aires. He is arbitrator at the Buenos Aires Bar Association and co-author with Alejandro Garro, *La Compraventa Internacional de Mercaderías* (1990), and several articles related to CISG in US and Argentine law journals. [Art. 8]

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