

Indholdsfortegnelse

CISG: Field of application	2
CISG: Interpretation in the CISG	2
CISG: Sales contracts formation	3
<i>The offer</i>	3
<i>The acceptance</i>	4
<i>Battle of forms</i>	4
CISG: Buyer and Seller's obligations	5
<i>Seller's obligations</i>	5
<i>Buyer's obligations</i>	6
CISG: Delivery of non-conforming goods	6
CISG: Fundamental breach	8
CISG: Remedies.....	9
<i>In general</i>	9
<i>Buyer's remedies – Art. 46-52</i>	10
<i>Seller's remedies – art. 62-65</i>	12
<i>Anticipatory breach</i>	12
<i>Claim for damages</i>	13
CISG: Passing of risk	13
<i>Passing of Risk – CISG</i>	13
<i>Passing of risk – INCOTERMS</i>	15
L/C – UCP 600	18
<i>What is it</i>	18
<i>How does it work – steps</i>	18
Bill of Lading – B/L	19
Liability for carriage of goods by sea – Maritime Code	21
Liability for carriage of goods by road – CMR	23

No uniform way to go about (USA use last-shot, Germany use knock-out)

CISG: Buyer and Seller's obligations

Seller's obligations

In general

- Seller must deliver goods in the right QGD, at the right time and place
- Main articles: 30-35

Seller's obligations – Art. 30

- Must deliver the **goods**, and over any **documents** and transfer the **property**
 - Must be free of any *third-party claims* – Art. 41-43

Default rule - where to deliver – Art. 31

- a) → Carriage of goods = Delivery to the first carrier for transmission to the Buyer
- b) → Specific goods = Delivery to the agreed place, available for the Buyer
- c) → No carriage generic goods = Delivery at Seller's place, available for the Buyer

Default rule – when to deliver – Art. 33

- a) Specific time → On that date and time
- b) Specific period → Within that period
- c) Not agreed → Within reasonable time after the conclusion of the contract

Default rule – what to deliver – Art. 35

- Art 35 (1) → Contractual conforming goods
 - Goods, that are in conformity to what was agreed in the contract
- Art. 35 (2) → Expressly or impliedly conforming goods.
 - Fit for ordinary purpose
 - Fit for particular purpose – made known expressly or impliedly
 - Match the sample
 - Packed in usual and protecting manner

- Claim for damages → art. 74-77

What remedies

- Specific relief → perform obligations
- Substitutionary relief → compensation for loss suffered
- Avoidance → terminate the contract

Domestic sales law limits specific relief

- Art. 28 → Courts only bound to sanction specific relief, if they were so under domestic law
 - Must be taken into consideration for all specific reliefs

Buyer's remedies – Art. 46-52

Demand specific performance – Art. 46 (1)

- Can demand the Seller to perform his obligations, unless it is inconsistent with another used remedy (e.g. avoidance)

Demand re-delivery – Art. 46 (2)

- Went through above;
 - Non-conforming goods + fundamental breach = can demand re-delivery
 - Must notice of re-delivery and non-conformity

Demand repair/cure – Art. 46 (3)

- Can demand the Seller to cure non-conformities, unless unreasonable
- Must give notice of demand either in conjunction with 39-notice, or reasonable time hereafter

Nachfrist for performance – Art. 47

- Can fix an additional *reasonable* time-period for the Seller to perform (deliver)
 - Can't use any other remedies in this time-period
- If Seller fails to comply → can avoid cf. art. 49 (1) (b)

Seller's right to cure – Art. 48 + 37

Passing of risk – INCOTERMS

As mentioned, the CISG rules is normally derogated from, and therefore I will need to talk about the INCOTERMS.

What are Incoterms?

- Set of standard-rules regulating POS, but also security measures, costs, import/export licenses, insurance etc.
- Standard-rules = must be agreed in the contract. Writing a clause is sufficient, for example “DAP 2020, Esbjerg”

Incoterms structure?

- Every clause → A-side and B-side.
 - A-side = Seller’s duties and obligations
 - B-side = Buyer’s duties and obligations
- A/B-sides: categorized in numbers
 - A1/B1 – General duties
 - A2/B2 – Delivery/taking delivery
 - A3/B3 – Passing of risk – when?
 - ...
 - A9/B9 – Costs
 - A10/B10 – Notices

The Incoterms 2020

Category-E

- **EXW – Ex Works**
 - → Risk passes at Seller’s place of business (or another named premise)
 - → Buyer pays for all costs, insurance etc.

Category-F

- **FCA – Free Carrier**
 - → Risk passes when the goods are handed over to the first independent carrier