

There is no remedy there is no right law contract essay

Law



INTRODUCTION

The CISG (United Nation Convention on Contracts for the International Sale of Goods) holds rules which regulate the rights of buyer and sellers in connection with the contracts for the international sale of goods. It took effect in the United States on 1 January, 1980 and becoming the fast international sales in the world. The CISG contains total 101 articles and there rules are organized in four main parts. Part I of the convention deals with the important provisions which tell us when and how to use the substantive rules in part I and III. Further, the substantive core of the convention is located in part II on formation of the contract and in part III on the sale of goods. The part IV deals with the final provisions to making the reservations of various CISG rules. Further, Electronic communications under the CISG (United Nation Convention on Contracts for the International Sale of Goods) is one of the most successful international instruments which produce uniform substantive rules for the international trade. World-wide two thirds of international sale transactions are conducted between parties based on CISG country.[2]The convention on contracts for the International sale of Goods has been interpreted by its advisory council to apply to such electronic contracts. International law, based on general principles of good faith and equity and on customary international law, is an existing and future source of international commercial electronic contract law. Customary international electronic commerce law is derived from the general practices of businesses contacting through electronic communications that are accepted as law, and from international treaties and laws, and their interpretations, which have been accepted as authoritative descriptions of

such practices. Under this research project the researcher focused on the breach of contract and obligation impose over the parties by CISG. Further, the researcher discussed the remedies available under the CISG in case of breach the contracts and comparative study with the Indian contract act & sale of goods act.

BREACH OF CONTRACT:

" A Breach of contract under the CISG (United Nation Convection on Contracts for the International Sale of Goods), 1980 is the term used to describe a party's non- performance of an obligation under the international contract." [3]

CHAPTER II

OBLIGATION OF THE SELLER:

To Deliver the Goods - chapter II, article 30 of CISG deals with the seller's obligation to deliver the goods in the hand of the buyer and also handover all important documents which are required by the contract. Under this contract if the parties mutually agree to deliver the goods at specific time & place or terms like - delivery at first carrier, place of business, delivery of insurable goods etc. then the seller is bound to deliver the goods in the same way. Further, article 33(a) & 33(b) specifically bind the seller to deliver at the specific time agreed. If the time is not described in the contract, the seller must have to deliver the goods within the reasonable time. [4] Conformity of the Goods - section II of chapter II specifically deals with the conformity of goods which means that the seller has to deliver the goods at same quantity, quality, packages which are contain under the contract. So, seller is bound to

perform all clauses which are made by both the parties at that time of formation the contract. Further, the research found that there are some key obligations imposed over the seller under the chapter ii of CISG[5]. Those are as follows :-Liable for lack of conformity. There should not be any missing part of the contracted goods. Buyer's right to examine the goods. To disclose all details about the goods. Goods must be free from Third party claim.

OBLIGATION OF THE BUYER:

Chapter III, Article 53 to 60 deals with the obligation of the buyer under the contract. Article 53 says that the buyer must have to pay the price for the goods and take delivery of those goods. Basically, this article describes the general responsibilities of the buyer in any international sales transaction under the convection of sale of goods act. Further, article 54 specifies that the buyer's obligation to pay the contract price extends beyond the abstraction of owing the money. The obligation also includes whatever steps and costs that are necessary to ensure that the payment is actually made. [6]The purpose of the article 55 is presupposed in nature, which deals that the offer did not otherwise fail for indefiniteness due to the absence of the price term . If the parties are not mentioned the price (in term of express or implied) in the contract; the contract will perform at the existing market price.[7]Further, article 56 talks about the standard to determine the price if the price is to be determined by the weight of the goods but the contract does not specify the standard to determine the weight. This article covers the situation when the contract does not specify, whether goods should be measured at net or gross weight. As per this article the standard would be determined by the parties' performance in the contract, trade usage, course

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of dealing etc. Article 57 define that where no place is mentioned in the contract to give the payment, in this situation the word place to be consider as a place : At the seller's place of Business or the place where the handing over of the documents takes place.[8]Article 58 sets the time for payment, if the parties did not mention the time for payment in the contract then the payment will pay at the time the goods or documents represents to the buyer. After taken the control over the goods or documents the buyer will be liable to pay the amount. If the goods are to be shipped (in case of absent a contrary agreement between the parties for the time of payment), the seller may provide for a documentary exchange for goods, and in that case, payment is due upon proper tender of the documents to the buyer-article 58(2).[9]In this case, the buyer has right to examine the goods before using this opportunity he is not bound to pay the price. Under article 59 the buyer must pay the price on the date fixed by parties in the contract.

CHAPTER III

REMEDIES FOR THE BUYER:

The remedies available to buyer for breach of contract by the seller, are set forth in Part III, Chapter II and section III of CISG, Article 45- 52. If the seller fails to perform any of his obligations under the contract, CISG under Article 45(1) (a) permits several remedies to the buyer, which includes:-[10]Right to performance - specific performance , Article 46(1)Right to delivery of substitute goods only if the lack of conformity, Article 46(2)Right to repair if goods lack in conformity , Article 46(3)Right to fix additional period of time for performance , Article47 (1)Right to get reimbursement of expenses advances along with claim of damages, Article48(1)Right to avoid the <https://assignbuster.com/there-is-no-remedy-there-is-no-right-law-contract-essay/>

contract in case of non delivery of goods , Article 49(1)Right to reduction in price , Article 50Right to avoid the contract in case to missing or lack of conformity delivery of goods , Article 51Right to refuse from taking delivery of goods if more quantity is provided for in the contract , Article 52Right to damages, Article 45(1)(b) r/d Article 74 to 77

REMEDIES FOR THE SELLER:

The remedies available to the seller for breach of contract are set forth in part III, chapter III and section III of CISG, Article 61-65. If the buyer fails to perform any of his obligations under the contract, CISG under article 61 permits several remedies to the seller, which includes:-[11]Right to performance- specific performance to deliver goods and receive price and buyer to perform his other obligation Article 62. Right to fix an additional period of time of reasonable length for performance by the buyer of his obligation, Article 63Right to avoid the contract if there is a fundamental breach of contract, Article 64Right to supply goods to the buyer as per his own specifications if the buyer fails to specify the form , measurement or other features of the goods , Article 65Right to damages, Article 61(1)(b) read with Article 74 to 77

COMMON OBLIGATION FOR BOTH BUYER & SELLER: (Article 71-73)[12]

Suspension of ContractRight to avoid the Contract for fundamental BreachRight to avoid for the breach of installment Contract

RIGHT TO A VOID CONTRACT ANTICIPATING BREACH OR FAILURE TO MAKE INSTALLMENT AS PER CONTRACT

According to Article 72(1)[13]-If prior to the date for performance of the contract it is clear that one of the parties will commit a fundamental breach of contract, the other party may declare the contract avoided. According to Article 73(1)[14]-In the case of a contract for delivery of goods by installments, if the failure of one party to perform any of his obligations in respects of any installment constitutes a fundamental breach of contract with respect to that installment, the other party may declare the contract avoided with respect to that installment. According to Article 73 (2)[15]-If one party's failure to perform any of his obligations in respect of any installment gives the other party goods grounds to conclude that a fundamental breach of contract will occur with respect to future installments, he may declare the contract avoided for the future, provided that he does so within a reasonable time.

CHAPTER IV

CATEGORIES OF REMEDIES FOR BREACH OF CONTRACTS UNDER CISG:

An aggrieved seller or buyer can elect for performance. An aggrieved seller or buyer can elect for recovering damages. An aggrieved seller or buyer can elect for avoidance of the contract.

CATEGORIES

BY AVOIDANCE

BH RECOVERY DAMAGES

BY PERFORMANCE

CISG AND SPECIFIC PERFORMANCE OF CONTRACT:

Article 46(1) provides that a buyer may require the seller to perform his obligations unless the buyer has resorted to an inconsistent remedy. Article 62 gives the seller the corresponding remedy: an action for the price. Each article appears to make specific performance routinely available. However, article 28 limits the availability of specific performance. Under article 28, a "court is not bound to enter a judgment for specific performance unless the court would do so under its own law in respect of similar contracts of sale not governed by this convention" It is worth noting that identification of the goods to the contract is not a prerequisite to a claim for specific performance under article 42 and article 62. Nor aggrieved buyer or seller is required to demonstrate that they cannot reasonably purchase or resell the goods under contract. The buyer can require the seller to perform the full range of her contractual obligations. As far as article 46 goes, no distinction is made between different sorts of breaches. The buyer can require the seller to perform his entire obligation under the contract. Example: article 30 requires the seller to deliver goods in conformity with the contract article 41 imposes on the seller effect a warranty of goods title.[16]As per article 41, the seller must deliver goods to the buyer which is free from any right or claim of a third party, unless the buyer agrees to take the goods subject to that right or claim. Therefore, the seller's obligations include delivery of goods free of

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encumbrances or third party claims. The seller's obligations under article 41 include the delivery of goods free from all well- founded third party claims. [17]Furthermore, the seller bears the burden of proving that a claim is not well founded.[18]Article 46 sets up a general rule of specific performance in cases of seller breach. In non- conforming goods cases, the buyer has a right to demand delivery of substitute goods if the lack of conformity constitutes a fundamental breach, and to demand repair unless such a demand is unreasonable. Article 46(2)(3) allows the buyer who has received goods that " do not conform to the contract" to require delivery of substitute goods or to require the seller to repair the goods. Article 62 provides an analogous rule in the case of buyer breach. The seller is free to choose the remedy except where the breach is not considered fundamental.

EXPLANATION AS TO FUNDAMENTAL BREACH OF CONTRACT:

As per Article 25 says that " A breach of contract committed by one of the parties is fundamental if it results in such detriment to the other party as substantially to deprive him of what he is entitled to expect under the contract, unless the party in breach did not foresee and reasonable person of the same kind in the same circumstances would not have foreseen such a result." [19]Nothing in the CISG prevents aggrieved parties from choosing the alternative of money damages if they prefer, indeed article 73 explicitly grants them the option of doing either.

CISG AND DAMAGES FOR BREACH OF CONTRACT :

As with the question of specific relief, the conventional economic wisdom on money damages has moves through multiple stages. Damages for breach of <https://assignbuster.com/there-is-no-remedy-there-is-no-right-law-contract-essay/>

contract by one party consist of a sum equal to the loss, including loss of profit, suffered by the other party as a consequence of the breach. Such damages may not exceed the loss which the party in breach foresaw or ought to have foreseen at the time of the conclusion of the contract, in the light of the facts and matters of which he then knew or ought to have known, as a possible consequence of the breach of contract, article 74.[20]If the contract is avoided and if, in a reasonable manner and within a reasonable time after avoidance, the buyer has bought goods in replacement or the seller has resold the goods, the party claiming damages may recover the difference between the contract price and the price in the substitute transaction article 75.[21]If the contract is avoided and there is a current price for the goods, the party claiming damages may, if he has not made a purchase or resale may recover the difference between the price fixed by the contract and the current price at the time of avoidance as well as any further damages recoverable. However, the party claiming damages has avoided the contract after taking over the goods, the current price at the time of such taking over shall be applied instead of the current price at the time of avoidance. article76(1)[22]The current price is the price prevailing at the place where delivery of the goods should have been made or if there is no current price at that place, the price at such other place as serves as a reasonable substitute , making due allowance for differences in the cost of transporting the goods. Article 76(2)A party who relies on a breach of contract must take such measures as are reasonable in the circumstances to mitigate the loss, including loss of profit, resulting from the breach. If he fails to take such measures, the party in breach may claim a reduction in the

damages in the amount by which the loss should have been mitigated as per the article 77.[23]

CISG AND AVOIDANCE OF CONTRACT:

Under the CISG, avoidance is the one sided right of a party to terminate the contract by its mere declaration. Such termination of a contract is the hardest sword that a party to a sales contract can draw is the other party has breached the contract. No other remedy - claim for performance, price reduction, damages- has the same incisive effect. For, it not only deprives avoidance to the party in breach of the benefit of the contract including the lost profit and renders often futile prior investments, if it is the seller who has breached the contract he is also burdened with the risks of goods. These risks of damages to or even loss of, the goods are particularly high when the goods are already in a foreign country. In CISG sales, this is typically the case. The seller must then either re-transport the goods with the respective costs or attempt to resell them on the foreign market, which he may not know very well. Rightfully declared who has breached the contract the consequences of termination may be hard for him, too, particular if he already has resold the goods and now faces damages claims from his sub buyers because of non delivery or if he already made investment in expectation of the delivery. Therefore, it is clear that on the one hand the remedy of avoidance should not be granted too easily, but on the other hand there must be a borderline from where the innocent party must be entitled to bring the contract to an end.[24]

AVAILABILITY OF AVOIDANCE UNDER THE CISG:

The CISG grants the remedy of avoidance in four different situations:

[25]Where the seller has fundamentally breached the contract(regulated by article 49)In a parallel manner - where the buyer has fundamentally breached the contract (regulated by article 64)In the situation that it is clear and almost certain that either the seller or the buyer will fundamentally breach the contract(anticipatory breach regulated by article 72)The situation is the case of an installment sale. Avoidance with respect the single installment is permitted if a party committed a fundamental breach with respect to that single installment, avoidance of the contract as a whole can be claimed where the fundamental breach concerns the whole contract (article 73).

REQUIREMENT OF AVOIDANCE:

The main requirements of avoidance are more or less the same for all pre-mentioned situations: Fundamental breach of contractNoticeNot always but for the practically most important cases a time limitThe return of the substantially unchanged goods.

CHAPTER V

A COMPARATIVE OVERVIEW BETWEEN THE CISG AND INDIAN CONTRACT LAW IN CONTEXT OF DAMAGES:

The convention on International sale of Goods (CISG) is arguably one of the most successful international conventions in terms of the numbers of countries that have ratified it. India and UK are the two major trading countries that have not ratified the CISG. Indian law relating to sale of goods <https://assignbuster.com/there-is-no-remedy-there-is-no-right-law-contract-essay/>

is codified in two legislations: The sale of Goods Act, 1930The Indian contract Act, 1872Section 73 &74 of Indian contract act contains the principles governing damages. The law relating to sale of goods (including provision for damages) is also contained in the Sale of Goods Act 1930. The general law governing contracts is however contained in the Indian contract act. The question that naturally arises is how the law relating to damages specified in the two enactments is to be reconciled? The answer is provided in section 3 of sale of goods act. This section provides that the provisions of Indian contract act shall continue to apply to the contract for the sale of goods if they are not in conflict with the express provision of the sale of goods act. The most important issues, which arise from a comparative analysis of the law relating to damages in international sale of goods, may be summarized as follows: Sec 73 of Indian contract act lay down the principles governing the measure of damages under the Indian law. Its counterpart in international trade law is article 74 of CISG. Both provisions are identical in many respects and both provisions lay down a subjective and an objective test for the determination of damages. However the rule of article 74 CISG is wider than the rule in Indian law. But the aggrieved party has a better chance of recovering damages under Indian law than under the CISG. Both article 74 CISG and sec. 73 of Indian contract act encompass damages for inconvenience and expense caused because of non- conforming goods within their ambit. However the major difference here is that, unlike section 73, article 74 CISG does not apply to the liability of the seller for death or personal injury caused by the goods to any person. Therefore it is probable that additional costs of a separate action for recovering the damages caused

by defective goods causing personal injury may be considered while determining the transaction costs. Though damages for injured feelings have been held to be within the scope of section 73 whereas no such provision exists in the CISG. Nor does the CISG specify the time or the place for measuring damages. This is bound to lead to some confusion since the time for measuring damages under Indian law is well settled. This assumes significance in international transactions if the price of goods fluctuates wildly and the time for measuring damages may have a significant impact on the quantification of damages. The uncertainties may lead to substantial problems in case of any dispute and it may increase litigation costs that have to be factored into the transaction costs. In mitigation of damages, the major difference arises in the case of anticipatory breach of contract. The time when the duty to mitigate damages under the CISG arises as soon as the aggrieved party comes to know of the intent to breach. The position is different in India where the duty to mitigate arises only upon breach of contract or when the aggrieved party has rescinded the contract. Therefore the position under Indian law is more favorable to the aggrieved party rather than to the breaching party. It may also be stated that both parties a more certain test for determining the time for determining when the duty to mitigate arises than is provided under the CISG and may choose to introduce contractual terms to this effect. The seller's right to claim damages if the buyer to accept the good and pay the price both under article 53 and article 61 (b) of CISG and under section 56 of sale of goods act is the same. The law in India also provides a right to the buyer to get damages of there is non-delivery of the goods as is clearly stated in section 57 of sale of goods act.

The law is the same under the CISG as an analysis of article 30 a& 45 demonstrates. Damages for breach of warranty are available both under Indian law (sec 73 sale of goods act & sec 59 of contract act) and under the article 74 CISG. The term " warranty" has different connotations under Indian law and under CISG, but the essential concepts are the same under these acts.

Chapter VI

CASE ANALYSIS:

GmbH Lothringer Gunther Grosshandelsgesellschaft für Bauelemente und Holzwerkstoffe V. NV Fepeco International , Hof van Beroep, Antwerpen, Belgium 2006.[26]

In this case, a Belgian seller & a German buyer entered into a contract for the supply of construction materials. The contract was exclusively regulated by the seller's standard terms. According to those terms, the goods should have been delivered in November, December 1999 and January 2000. The contract also provided for payment " cash against documents (B/L)". Since the buyer accepted and paid only for some of the shipments, the seller announced to the buyer that it would resell the goods within seven days but failed to do so. Nearly six months later, after granting the buyer a final period of time in which to perform, the seller invoked avoidance of part of the contract according to Art. 64(1)(b) CISG, entered into a cover sale and claimed damages. On its part, the buyer invoked breach of contract by the seller in many respects. The First Instance Court decided in favor of the seller, but denied it part of the damages it had claimed. Then the buyer appealed and the seller brought an incidental appeal to recover all the

damages sought. The Second Instance Court confirmed the lower Court's decision. As to the merits, the Court found that the buyer was not entitled to consider the contract avoided on the basis of Art. 49(1)(a) CISG, since no contractual breach by the seller was proven. First of all, regarding late delivery, the Court found that no period of time for delivery had been agreed upon by the parties, November, December 1999 and January 2000, merely being expected dates for shipment. Consequently, contrary to what the buyer argued, Art. 33(b) CISG could not be deemed violated. Further, the Court also excluded that partial delivery by the seller amounted to a breach of Art. 35 CISG, since partial deliveries were not only allowed under the contract, but had also been accepted by the buyer, who had made no complaints in that connection. With respect to delivery without original documents, the Court affirmed that Art. 34 CISG had not been breached since the buyer had paid for several deliveries without objecting to the fact that documents had not been handed over. Furthermore, since the buyer had requested to take delivery of only part of the goods, the seller could do nothing else but hand over a delivery order instead of the bill of lading (B/L), as provided for by the contract. Finally, lacking any evidence thereof, the Court rejected the buyer's claim that the goods were not of the quality contractually agreed upon (Art. 35(1) CISG). As to the seller's claim for damages, the Court found that the seller had failed to meet his duty to mitigate damages under Art. 77 CISG. Although the seller had notified the buyer of its intention to enter into a cover sale in April, the resale did not take place within a reasonable time thereafter (in the opinion of the Court, three months) but only six months later. Nevertheless, the Court held the

seller entitled to recover the difference between the unpaid invoices and the income from the resale (Art. 75 CISG), the buyer having failed to demonstrate that a higher price could have been obtained if the resale had been timely. In the opinion of the Court, the seller also had the right to recover insurance fees and costs for storage under Art. 85 CISG, but not for the period exceeding the three months within which the cover sale should have been concluded. Furthermore, according to Art. 78 CISG, the seller was awarded interest in the amount provided for in the seller's standard terms (i. e. 9%) starting from the date of payment of the resale. Finally, the Court rejected the seller's claim both for complementary damages (e. g. administrative and management costs) and for compound interest. In doing so, the Court pointed out that under CISG complementary damages can only be recovered if the party demonstrates that damages are higher than the interest accorded, while compound interest can only be awarded if the party gives evidence of being entitled to it (e. g. because it had to pay extra interest on account of the fact that it had not received the sums owed to it).

R. H. V. E., SWITZERLAND 1997

A German buyer and two French sellers entered into an agreement for the sale of Italian sunflower oil to be delivered in monthly installments to a buyer's customer in Rumania. The seller made an advance payment for the delivery of a first installment of oil. After having discovered that the sellers never delivered the first installment of oil to the Rumanian customer, the buyer fixed an additional period of time for delivery. The sellers did not perform within the additional period of time set by the buyer. Upon expiration of the additional period of time the buyer declared the contract

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avoided. The buyer brought an action to recover the advance payment and damages. In the Court's opinion the buyer had validly declared the avoidance of the contract according to Art. 73(1) and 49(1)(b) CISG, as the sellers had not performed within the additional period of time for performance set by the buyer. The failure to perform their obligations in respect to the first instalment gave the buyer good grounds for concluding that a fundamental breach would occur also with respect to future instalments (Art. 73(2) CISG). The court held therefore that the buyer was entitled to receive restitution of the advance payment as a consequence of the avoidance of contract (Art. 81(2) of CISG). With respect to the claim for damages claim, the court held that the buyer was entitled to recover the costs it had sustained for the advance payment as well as the loss of profit (Art. 74 of CISG). Moreover, the buyer was awarded consequential damages for losses suffered due to the variation of the exchange rate between US\$ (currency of payment) and DM, which is to be calculated as the difference between the exchange rate on the date of the advance payment under the contract and the date on which restitution of payment will be made. Further, the court awarded the buyer the restitution of the advance payment plus interest (Art. 78 CISG). As to the applicable rate of interest, the court applied the interest rate of the sellers' place of business, that being the place in which the sellers usually invest their money.

ITALDECOR S. A. S. V. YIU'S INDUSTRIES (H. K.) LTD ITALY 1998[27]

On 28 November 1990 an Italian buyer and a Hong Kong seller concluded a contract for the sale of knitted goods, with the following clause regarding

delivery and payment: " Delivery: 3rd December, 1990; Terms of payment: deposit: US \$6, 000. 00; Balance: bank cheque". Before the delivery date, the buyer issued a bank cheque in the amount of the deposit, but the goods were not delivered. After the date for delivery had expired, the buyer canceled the purchase order. The seller replied on 14 December 1990, stating that it would deliver the goods but only after payment of the entire purchase price. In January 1991 the buyer brought an action before an Italian court claiming avoidance of the contract for breach by the seller and refund of the sum paid. The court of first instance rejected the buyer's claim, and the buyer appealed. The major issues of this case were time of delivery - specific date fixed by the contract under art. 33 CISG, Fundamental breach (art. 25 CISG) - non-delivery at the specific date fixed by the contract & time of payment - payment as a condition for delivery (art. 58 CISG) seller not entitled to use this right in such a manner that could cause a substantial detriment to buyer. The Court of Appeals held that the contract was governed by CISG, as the Italian rules of private international law led to the application of the laws of Italy, a contracting State (Art. 1(1)(b) CISG). In the case at hand, the Court found that the 1955 Hague Convention on the Law Applicable to International Sales led to the application of the law of the seller's place of business. However, since the Court was unable to ascertain the applicable Hong Kong law, it held that Italian law was applicable, as provided by a specific provision of the Italian rules of private international law. The Court held that since the seller had failed to deliver the goods at the date fixed by the contract as required by Art. 33 CISG, the buyer was entitled to declare the contract avoided on the ground of Arts. 45(1) and 49(1) CISG,

and that the cancellation of the purchase order sent by the buyer was equivalent to a notice of avoidance under Art. 26 CISG. The Court considered that, given the concise text of the delivery clause, the precise observance by the seller of the date for delivery was of fundamental importance to the buyer, who expected to receive the goods in time for the holiday season, as it had made apparent to the seller even after the conclusion of the contract. Therefore, the non-delivery at the date fixed by the contract amounted to a fundamental breach by the seller (Art. 25 CISG). The Court further held that the seller could not make payment of the full purchase price a condition for handing over the goods on the ground of Art. 58(1) CISG. In fact, the seller had only specified such condition in its reply to the buyer's notice of avoidance. In any event, the seller cannot avail itself of the right set out in Art. 58(1) CISG in such a manner that could cause a substantial detriment to the other party, because this would amount to a fundamental breach of contract (Art. 25 CISG).

CONCLUSION:

After completed this project the research got idea that there are similarities relating to the law of damages between the CISG and Indian law outweigh the differences , and that the CISG may be a viable alternative when dealing with international sale of goods transactions. Further, in these agreements if the seller commits a breach and the buyer bring suit, then the CISG provides the buyer with remedies to help right the wrong and thus determine the outcome of the case. In these contracts the researcher found that how the dispute resolution game is played with the help of substantial & procedural rules of CISG within the international commercial era. Further, the right to

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obtain damages enjoys a key position within the CISG remedial matrix. In some cases this kind of monetary compensation supplements the right to demand specific performance or to avoid and in other cases damages may be the only relief permitted under it. In some respects the CISG liability rules represent a compromise between competing civil and tortious liabilities.