

United nations convention on contracts for the international sale of goods - vien...

Law



United Nations Convention on Contracts for the International Sale of Goods - Vienna 1980

Introduction and Background United Nations Convention on Contracts for the International Sale of Goods (CISG) was developed by United Nations Commission on International Trade Law (UNCITRAL) and was adopted in 1980 at Vienna and was adopted by 62 countries and 8 International organizations affiliated with trade facilitation and regulation (Charters, 2005). Though having its underpinnings in the earlier conventions like the Uniform Law on International Sale of Goods (ULIS), the Uniform Law on the Formation of Contracts for the International Sale of Goods (ULF) and Uniform Laws on International Sales (ULIS), CISG is considered to be more global in nature as it caters for the needs of diverse countries. However, in spite of its International character, the convention is criticized on its failure to implement a uniform code of practice in dealing with sale disputes. This means that the judges in diverse countries have the freedom to interpret the law and award cases as per their individual interpretation. This causes a unique problem in the case where the importing country has a different indigenous law for sales of goods, and the CISG gives a different direction to regulate the same sale (Schlechtriem, 2005). In these cases, it has often been noted that the judges tend to favor the indigenous laws and interpret the CISG with this bias. Research Aims The research aims to understand the extent to which the above creates opportunities and challenges or barriers in the sales in the energy sector of North African countries that are existing signatories to CISG - Burundi, Guinea, Lesotho, and Mauritania (Andersen and Schroeter, 2008). The research also intends to explore the relevance of

CISG in these countries, especially since there are various international corporations that do mining and prospective here, and then sell the oil and gas to the Western countries. The research also aims to develop a set of recommendations for the countries that can enable them in being more profitable under the CISG.

Research Methods The research will include secondary research involving a review of the literature on the history and overview of CISG in use in the four selected countries. A preliminary review of the literature has revealed that CISG is available to different countries with the option of adopting caveats and deceleration (Ziegel, 2000). This has led to countries like the USA and European countries to formulate discriminatory policies. The literature review is therefore expected to bring to light the diverse points of view on the effectiveness of CISG in North Africa and its future scope in the region. The research will also include primary data collection using telephonic interview methods where the researcher will obtain data from industry officials in the 4 selected countries. The researcher intends to seek permissions to conduct the telephonic interviews in three oil and gas organizations each of the countries, thus obtaining information from 12 respondents. The researcher will contact the industries on the basis of personal contacts and will obtain permission to interview their head of sales. The data is to be analysed using a reflective method where the researcher will collate the responses and discuss them in the light of the gathered literature review.

Research Limitations Obtaining credible data is a problem that can affect the integrity of the research. Most of the countries in the Northern Africa are marred by controversies and corruption and hence getting accurate data is a challenge. Some governments also seek to protect

data as it is engineered to suit the interests of cartels that rule the gas and oil industries. The challenge can be overcome by obtaining the secondary data from institutions such as the UN and trying to access data from the GDP records and financial markets of the selected countries. A similar problem may be encountered while conducting the telephonic interviews, where the respondents may not be forthcoming with honest answers. References Andersen, Camilla Baasch & Schroeter, Ulrich G. (2008), *Sharing International Commercial Law across National Boundaries: Festschrift for Albert H. Kritzer on the Occasion of his 60th Birthday*, Andrea (2005), 'Fitting the Situation: The CISG and the Regulated Market' 4 *Washington University Global Studies Law Review* 1, 38. Schlechtriem, Peter (2005), 'Requirements of Application and Sphere of Applicability of the CISG' 36 *Victoria University of Wellington Law Review* 781. Ziegel, Jacob (2000), 'The Future of the International Sales Convention from a Common Law Perspective' 6 *New Zealand Business Law Quarterly* 336, 338.