



# Drafting Contracts Under the CISG (Cile Studies)

*Harry M. Flechtner, Ronald A. Brand, Mark S. Walter*

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The CISG is the United Nations Convention on Contracts for the International Sale of Goods; a treaty ratified by about 70 countries that provides a uniform international sales law. The occasion of the CISG's 25th anniversary signals something extremely significant in the world of international commercial law: the true coming of age of the CISG, as evidenced by (and as a result of) several thousand available court and arbitration decisions world-wide applying the CISG. To celebrate this occasion, a conference was organized by the University of Pittsburgh's Center for International Legal Education and the United Nations Commission on International Trade Law (UNCITRAL). *Drafting Contracts Under the CISG* is a collaborative and important result of that conference.

This publication brings together the intellectually sophisticated yet extremely practical and original contributions written by leading CISG scholars from around the globe and practitioners experienced in dealing with the CISG. Included are 140 sample clauses, a complete model sales agreement, and contextual analysis of contract drafting issues.

The CISG is a new reality and is very relevant to US attorneys at the planning and negotiation stages of a sales transaction. It is increasingly the case that a lawyer in the US, or virtually anywhere else, cannot adequately serve a client's needs without knowledge of and skill in using the Convention to help, for example, prevent transactions from aborting over choice of law conflicts, and to offer alternatives that can resolve bargaining impasses.

International commercial lawyers will find sample clauses dealing with major contract issues under the CISG, including:

- opting into the CISG while providing an appropriate gap-filling source of law
- passage of risk of loss
- right to inspection of goods
- force majeure
- warranties and warranty disclaimers
- limitations on remedies
- choice of forum
- pre-contractual relationships and prior communications
- confidentiality of negotiations
- retention of the power of revocation of an offer

- strict time limits for acceptance of an offer
- the "battle of the forms"
- the law governing contract validity
- parole evidence
- party rights upon breach
- notice requirements to preserve rights
- notice of avoidance
- entitlement to interest
- specific performance versus damages
- buyer's right to substitute goods



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