

# CONSOLIDATION OF INTERNATIONAL SALES CONVENTIONS ACT

R.S.N.W.T. 1988,c.I-7

In force May 1, 1992

*(Current to: August 4, 2013)*

## **AS AMENDED BY NUNAVUT STATUTES:**

S.Nu. 2003,c.9

In force June 6, 2003

This consolidation is not an official statement of the law. It is an office consolidation prepared for convenience only. The authoritative text of statutes can be ascertained from the *Revised Statutes of the Northwest Territories, 1988* and the Annual Volumes of the Statutes of the Northwest Territories (for statutes passed before April 1, 1999) and the Statutes of Nunavut (for statutes passed on or after April 1, 1999).

A copy of a statute of Nunavut can be obtained from the Territorial Printer at the address below. The Annual Volumes of the Statutes of Nunavut and this consolidation are also available online at <http://www.justice.gov.nu.ca/english/legislation.html> but are not official statements of the law.

Any certified Bills not yet included in the Annual Volumes of the Statutes of Nunavut can be obtained through the Office of the Clerk of the Legislative Assembly.

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## GLOSSARY OF TERMS USED IN CONSOLIDATIONS

### *Miscellaneous*

- c. means "chapter".
- CIF means "comes into force".
- NIF means "not in force".
- s. means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
- Sch. means "schedule".
- SI-005-98 means the instrument registered as SI-005-98 in 1998. (*Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.*)
- SI-012-2003 means the instrument registered as SI-012-2003 in 2003. (*Note: This is a Nunavut statutory instrument made on or after January 1, 2000.*)

### *Citation of Acts*

- R.S.N.W.T. 1988,c.D-22 means Chapter D-22 of the *Revised Statutes of the Northwest Territories, 1988*.
- R.S.N.W.T. 1988,c.10(Supp.) means Chapter 10 of the Supplement to the *Revised Statutes of the Northwest Territories, 1988*. (*Note: The Supplement is in three volumes.*)
- S.N.W.T. 1996,c.26 means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
- S.Nu. 2002,c.14 means Chapter 14 of the 2002 Annual Volume of the Statutes of Nunavut.

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SCHEDULE 1

SCHEDULE 2

SCHEDULE 3

## INTERNATIONAL SALES CONVENTIONS ACT

### Definitions

**1.** (1) In this Act,

"Amended Limitation Convention" means the Convention on the Limitation Period in the International Sale of Goods as amended by the Protocol amending the Convention on the Limitation Period in the International Sale of Goods, the text of which is prepared in accordance with Article XIV of the Protocol and is set out in Schedule 3;  
(*Convention modifiée sur la prescription*)

"Limitation Convention" means the Convention on the Limitation Period in the International Sale of Goods that was opened for signature at New York on June 14, 1974, the text of which is set out in Schedule 2; (*Convention sur la prescription*)

"Minister" means the Minister responsible for the administration of this Act; (*ministre*)

"Protocol" means the Protocol amending the Limitation Convention on the Limitation Period in the International Sale of Goods that was opened for signature at Vienna on April 11, 1980; (*Protocole*)

"Sales Convention" means the United Nations Convention on Contracts for the International Sale of Goods that was opened for signature at Vienna on April 11, 1980, the text of which is set out in Schedule 1. (*Convention sur la vente*)

### Words and expressions

(2) All words and expressions used in this Act have the same meaning as the corresponding words and expressions used in the Conventions set out in Schedules 1 to 3. S.Nu. 2003,c.9,s.2,3.

### Interpretation

**1.1.** (1) This Act shall be interpreted in good faith in accordance with the ordinary meaning to be given to its terms in their context and in light of its object and purpose.

### Aids to interpretation

(2) In applying subsection (1) to the Amended Limitation Convention and the Limitation Convention, recourse may be had to the following documents, as published in the *Canada Gazette*:

- (a) the Report of the United Nations Commission on International Trade Law on the work of its 5<sup>th</sup> session (1972), UN GAOR, 27<sup>th</sup> Session, Supp. No.17, UN Doc. A/8717; and
- (b) the Commentary on the Convention on the Limitation Period in the International Sale of Goods, UN Doc. A/CONF.63/17.  
S.Nu. 2003,c.9,s.4.

#### Declaration

**2.** The Minister shall request the Government of Canada to declare in accordance with article 93 of the Sales Convention that the Convention extends to the Nunavut. S.Nu. 2003,c.9,s.5.

#### Declaration

**2.1.** The Minister shall request the Government of Canada to declare in accordance with Article 31 of the Limitation Convention and Article 31 of the Amended Limitation Convention that those Conventions extend to Nunavut. S.Nu. 2003,c.9,s.6.

#### Government bound

**3.** This Act binds the Government of Nunavut. S.Nu. 2003,c.9,s.7.

#### Application of Sales Convention

**4.** (1) The Sales Convention applies in respect of any State that is a Contracting Party to that Convention.

#### Application of Amended Limitation Convention

(2) The Amended Limitation Convention applies in respect of any State that is a Contracting Party to that Convention.

#### Application of Limitation Convention

(3) The Limitation Convention applies in respect of any State that is a Contracting Party to that Convention and is not a Contracting Party to the Amended Limitation Convention. S.Nu. 2003,c.9,s.8.

#### Application to contracts

**5.** The parties to a contract may

- (a) exclude the application of a Convention set out in Schedule 1, 2 or 3 by expressly providing in the contract that the Convention does not apply to the contract; or
- (b) otherwise exclude the application of a Convention set out in Schedule 1, 2 or 3, or derogate from or vary the effect of any of the Convention's provisions, in accordance with the terms of the Convention.

S.Nu. 2003,c.9,s.9.

#### Publication

**6.** The Minister shall cause to be published in the *Nunavut Gazette* the dates on which Schedules 1, 2 and 3 come into force in Nunavut. S.Nu. 2003,c.9,s.9.

#### Paramountcy

**7.** In the event of any inconsistency between this Act and any other law, this Act prevails to the extent of the inconsistency. S.Nu. 2003,c.9,s.10.

Regulations

**8.** The Minister may make regulations for carrying out the purposes and provisions of this Act. S.Nu. 2003,c.9,s.11.

SCHEDULE 1 (Section 1)

UNITED NATIONS CONVENTION  
ON CONTRACTS FOR THE INTERNATIONAL  
SALE OF GOODS

THE STATES PARTIES TO THIS CONVENTION,

BEARING IN MIND the broad objectives in the resolutions adopted by the sixth special session of the General Assembly of the United Nations on the establishment of a New International Economic Order,

CONSIDERING that the development of international trade on the basis of equality and mutual benefit is an important element in promoting friendly relations among States,

BEING OF THE OPINION that the adoption of uniform rules which govern contracts for the international sale of goods and take into account the different social, economic and legal systems would contribute to the removal of legal barriers in international trade and promote the development of international trade,

HAVE AGREED as follows:  
S.Nu. 2003,c.9,s.12.

PART I

SPHERE OF APPLICATION AND GENERAL PROVISIONS

CHAPTER I

SPHERE OF APPLICATION

*Article 1*

(1) This Convention applies to contracts of sale of goods between parties whose places of business are in different States:

- (a) when the States are Contracting States; or
- (b) when the rules of private international law lead to the application of the law of a Contracting State.

(2) The fact that the parties have their places of business in different States is to be disregarded whenever this fact does not appear either from the contract or from any dealings between, or from information disclosed by, the parties at any time before or at the conclusion of the contract.

(3) Neither the nationality of the parties nor the civil or commercial character of the parties or of the contract is to be taken into consideration in determining the application of this Convention.

#### *Article 2*

This Convention does not apply to sales:

- (a) of goods bought for personal, family or household use, unless the seller, at any time before or at the conclusion of the contract, neither knew nor ought to have known that the goods were bought for any such use;
- (b) by auction;
- (c) on execution or otherwise by authority of law;
- (d) of stocks, shares, investment securities, negotiable instruments or money;
- (e) of ships, vessels, hovercraft or aircraft;
- (f) of electricity.

#### *Article 3*

(1) Contracts for the supply of goods to be manufactured or produced are to be considered sales unless the party who orders the goods undertakes to supply a substantial part of the materials necessary for such manufacture or production.

(2) This Convention does not apply to contracts in which the preponderant part of the obligations of the party who furnishes the goods consists in the supply of labour or other services.

#### *Article 4*

This Convention governs only the formation of the contract of sale and the rights and obligations of the seller and the buyer arising from such a contract. In particular, except as otherwise expressly provided in this Convention, it is not concerned with:

- (a) the validity of the contract or of any of its provisions or of any usage;
- (b) the effect which the contract may have on the property in the goods sold.

#### *Article 5*

This Convention does not apply to the liability of the seller for death or personal injury caused by the goods to any person.



*Article 6*

The parties may exclude the application of this Convention or, subject to article 12, derogate from or vary the effect of any of its provisions.

*CHAPTER II*

## GENERAL PROVISIONS

*Article 7*

(1) In the interpretation of this Convention, regard is to be had to its international character and to the need to promote uniformity in its application and the observance of good faith in international trade.

(2) Questions concerning matters governed by this Convention which are not expressly settled in it are to be settled in conformity with the general principles on which it is based or, in the absence of such principles, in conformity with the law applicable by virtue of the rules of private international law.

*Article 8*

(1) For the purposes of this Convention statements made by and other conduct of a party are to be interpreted according to his intent where the other party knew or could not have been unaware what that intent was.

(2) If the preceding paragraph is not applicable, statements made by and other conduct of a party are to be interpreted according to the understanding that a reasonable person of the same kind as the other party would have had in the same circumstances.

(3) In determining the intent of a party or the understanding a reasonable person would have had, due consideration is to be given to all relevant circumstances of the case including the negotiations, any practices which the parties have established between themselves, usages and any subsequent conduct of the parties.

*Article 9*

(1) The parties are bound by any usage to which they have agreed and by any practices which they have established between themselves.

(2) The parties are considered, unless otherwise agreed, to have impliedly made applicable to their contract or its formation a usage of which the parties knew or ought to have known and which in international trade is widely known to, and regularly observed by, parties to contracts of the type involved in the particular trade concerned.

*Article 10*

For the purposes of this Convention:

- (a) if a party has more than one place of business, the place of business is that which has the closest relationship to the contract and its performance, having regard to the circumstances known to or contemplated by the parties at any time before or at the conclusion of the contract;
- (b) if a party does not have a place of business, reference is to be made to his habitual residence.

*Article 11*

A contract of sale need not be concluded in or evidenced by writing and is not subject to any other requirements as to form. It may be proved by any means, including witnesses.

*Article 12*

Any provision of article 11, article 29 or Part II of this Convention that allows a contract of sale or its modification or termination by agreement or any offer, acceptance or other indication of intention to be made in any form other than in writing does not apply where any party has his place of business in a Contracting State which has made a declaration under article 96 of this Convention. The parties may not derogate from or vary the effect of this article.

*Article 13*

For the purposes of this Convention "writing" includes telegram and telex.

**PART II****FORMATION OF THE CONTRACT***Article 14*

(1) A proposal for concluding a contract addressed to one or more specific persons constitutes an offer if it is sufficiently definite and indicates the intention of the offeror to be bound in case of acceptance. A proposal is sufficiently definite if it indicates the goods and expressly or implicitly fixes or makes provision for determining the quantity and the price.

(2) A proposal other than one addressed to one or more specific persons is to be considered merely as an invitation to make offers, unless the contrary is clearly indicated by the person making the proposal.

*Article 15*

(1) An offer becomes effective when it reaches the offeree.

(2) An offer, even if it is irrevocable, may be withdrawn if the withdrawal reaches the offeree before or at the same time as the offer.

*Article 16*

(1) Until a contract is concluded an offer may be revoked if the revocation reaches the offeree before he has dispatched an acceptance.

(2) However, an offer cannot be revoked:

- (a) if it indicates, whether by stating a fixed time for acceptance or otherwise, that it is irrevocable; or
- (b) if it was reasonable for the offeree to rely on the offer as being irrevocable and the offeree has acted in reliance on the offer.

*Article 17*

An offer, even if it is irrevocable, is terminated when a rejection reaches the offeror.

*Article 18*

(1) A statement made by or other conduct of the offeree indicating assent to an offer is an acceptance. Silence or inactivity does not in itself amount to acceptance.

(2) An acceptance of an offer becomes effective at the moment the indication of assent reaches the offeror. An acceptance is not effective if the indication of assent does not reach the offeror within the time he has fixed or, if no time is fixed, within a reasonable time, due account being taken of the circumstances of the transaction, including the rapidity of the means of communication employed by the offeror. An oral offer must be accepted immediately unless the circumstances indicate otherwise.

(3) However, if, by virtue of the offer or as a result of practices which the parties have established between themselves or of usage, the offeree may indicate assent by performing an act, such as one relating to the dispatch of the goods or payment of the price, without notice to the offeror, the acceptance is effective at the moment the act is performed, provided that the act is performed within the period of time laid down in the preceding paragraph.

*Article 19*

(1) A reply to an offer which purports to be an acceptance but contains additions, limitations or other modifications is a rejection of the offer and constitutes a counter-offer.

(2) However, a reply to an offer which purports to be an acceptance but contains additional or different terms which do not materially alter the terms of the offer constitutes an acceptance, unless the offeror, without undue delay, objects orally to the discrepancy or dispatches a notice to that effect. If he does not so object, the terms of the contract are the terms of the offer with the modifications contained in the acceptance.

(3) Additional or different terms relating, among other things, to the price, payment, quality and quantity of the goods, place and time of delivery, extent of one party's liability to the other or the settlement of disputes are considered to alter the terms of the offer materially.

*Article 20*

(1) A period of time for acceptance fixed by the offeror in a telegram or a letter begins to run from the moment the telegram is handed in for dispatch or from the date shown on the letter or, if no such date is shown, from the date shown on the envelope. A period of time for acceptance fixed by the offeror by telephone, telex or other means of instantaneous communication, begins to run from the moment that the offer reaches the offeree.

(2) Official holidays or non-business days occurring during the period for acceptance are included in calculating the period. However, if a notice of acceptance cannot be delivered at the address of the offeror on the last day of the period because that day falls on an official holiday or a non-business day at the place of business of the offeror, the period is extended until the first business day which follows.

*Article 21*

(1) A late acceptance is nevertheless effective as an acceptance if without delay the offeror orally so informs the offeree or dispatches a notice to that effect.

(2) If a letter or other writing containing a late acceptance shows that it has been sent in such circumstances that if its transmission had been normal it would have reached the offeror in due time, the late acceptance is effective as an acceptance unless, without delay, the offeror orally informs the offeree that he considers his offer as having lapsed or dispatches a notice to that effect.

*Article 22*

An acceptance may be withdrawn if the withdrawal reaches the offeror before or at the same time as the acceptance would have become effective.

*Article 23*

A contract is concluded at the moment when an acceptance of an offer becomes effective in accordance with the provisions of this Convention.

*Article 24*

For the purposes of this Part of the Convention, an offer, declaration of acceptance or any other indication of intention "reaches" the addressee when it is made orally to him or delivered by any other means to him personally, to his place of business or mailing address or, if he does not have a place of business or mailing address, to his habitual residence.

## PART III

## SALE OF GOODS

*CHAPTER I*

## GENERAL PROVISIONS

*Article 25*

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 a reasonable person of the same kind in the same circumstances would not have foreseen such a result.

*Article 26*

A declaration of avoidance of the contract is effective only if made by notice to the other party.

*Article 27*

Unless otherwise expressly provided in this Part of the Convention, if any notice, request or other communication is given or made by a party in accordance with this Part and by means appropriate in the circumstances, a delay or error in the transmission of the communication or its failure to arrive does not deprive that party of the right to rely on the communication.

*Article 28*

If, in accordance with the provisions of this Convention, one party is entitled to require performance of any obligation by the other party, a court is not bound to enter a judgement 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.

*Article 29*

(1) A contract may be modified or terminated by the mere agreement of the parties.

(2) A contract in writing which contains a provision requiring any modification or termination by agreement to be in writing may not be otherwise modified or terminated by agreement. However, a party may be precluded by his conduct from asserting such a provision to the extent that the other party has relied on that conduct.

*CHAPTER II***OBLIGATIONS OF THE SELLER***Article 30*

The seller must deliver the goods, hand over any documents relating to them and transfer the property in the goods, as required by the contract and this Convention.

*Section I. Delivery of the goods and handing over of documents**Article 31*

If the seller is not bound to deliver the goods at any other particular place, his obligation to deliver consists:

- (a) if the contract of sale involves carriage of the goods - in handing the goods over to the first carrier for transmission to the buyer;
- (b) if, in cases not within the preceding subparagraph, the contract relates to specific goods, or unidentified goods to be drawn from a specific stock or to be manufactured or produced, and at the time of the conclusion of the contract the parties knew that the goods were at, or were to be manufactured or produced at, a particular place - in placing the goods at the buyer's disposal at that place;
- (c) in other cases - in placing the goods at the buyer's disposal at the place where the seller had his place of business at the time of the conclusion of the contract.

*Article 32*

(1) If the seller, in accordance with the contract or this Convention, hands the goods over to a carrier and if the goods are not clearly identified to the contract by markings on the goods, by shipping documents or otherwise, the seller must give the buyer notice of the consignment specifying the goods.

(2) If the seller is bound to arrange for carriage of the goods, he must make such contracts as are necessary for carriage to the place fixed by means of transportation appropriate in the circumstances and according to the usual terms for such transportation.

(3) If the seller is not bound to effect insurance in respect of the carriage of the goods, he must, at the buyer's request, provide him with all available information necessary to enable him to effect such insurance.

*Article 33*

The seller must deliver the goods:

- (a) if a date is fixed by or determinable from the contract, on that date;
- (b) if a period of time is fixed by or determinable from the contract, at any time within that period unless circumstances indicate that the buyer is to choose a date; or
- (c) in any other case, within a reasonable time after the conclusion of the contract.

*Article 34*

If the seller is bound to hand over documents relating to the goods, he must hand them over at the time and place and in the form required by the contract. If the seller has handed over documents before that time, he may, up to that time, cure any lack of conformity in the documents, if the exercise of this right does not cause the buyer unreasonable inconvenience or unreasonable expense. However, the buyer retains any right to claim damages as provided for in this Convention.

Section II. *Conformity of the goods and third party claims*

*Article 35*

(1) The seller must deliver goods which are of the quantity, quality and description required by the contract and which are contained or packaged in the manner required by the contract.

(2) Except where the parties have agreed otherwise, the goods do not conform with the contract unless they:

- (a) are fit for the purposes for which goods of the same description would ordinarily be used;
- (b) are fit for any particular purpose expressly or impliedly made known to the seller at the time of the conclusion of the contract, except where the circumstances show that the buyer did not rely, or that it was unreasonable for him to rely, on the seller's skill and judgement;
- (c) possess the qualities of goods which the seller has held out to the buyer as a sample or model;
- (d) are contained or packaged in the manner usual for such goods or, where there is no such manner, in a manner adequate to preserve and protect the goods.

(3) The seller is not liable under subparagraphs (a) to (d) of the preceding paragraph for any lack of conformity of the goods if at the time of the conclusion of the contract the buyer knew or could not have been unaware of such lack of conformity.

#### *Article 36*

(1) The seller is liable in accordance with the contract and this Convention for any lack of conformity which exists at the time when the risk passes to the buyer, even though the lack of conformity becomes apparent only after that time.

(2) The seller is also liable for any lack of conformity which occurs after the time indicated in the preceding paragraph and which is due to a breach of any of his obligations, including a breach of any guarantee that for a period of time the goods will remain fit for their ordinary purpose or for some particular purpose or will retain specified qualities or characteristics.

#### *Article 37*

If the seller has delivered goods before the date for delivery, he may, up to that date, deliver any missing part or make up any deficiency in the quantity of the goods delivered, or deliver goods in replacement of any non-conforming goods delivered or remedy any lack of conformity in the goods delivered, provided that the exercise of this right does not cause the buyer unreasonable inconvenience or unreasonable expense. However, the buyer retains any right to claim damages as provided for in this Convention.



*Article 38*

(1) The buyer must examine the goods, or cause them to be examined, within as short a period as is practicable in the circumstances.

(2) If the contract involves carriage of the goods, examination may be deferred until after the goods have arrived at their destination.

(3) If the goods are redirected in transit or redispached by the buyer without a reasonable opportunity for examination by him and at the time of the conclusion of the contract the seller knew or ought to have known of the possibility of such redirection or redispach, examination may be deferred until after the goods have arrived at the new destination.

*Article 39*

(1) The buyer loses the right to rely on a lack of conformity of the goods if he does not give notice to the seller specifying the nature of the lack of conformity within a reasonable time after he has discovered it or ought to have discovered it.

(2) In any event, the buyer loses the right to rely on a lack of conformity of the goods if he does not give the seller notice thereof at the latest within a period of two years from the date on which the goods were actually handed over to the buyer, unless this time-limit is inconsistent with a contractual period of guarantee.

*Article 40*

The seller is not entitled to rely on the provisions of articles 38 and 39 if the lack of conformity relates to facts of which he knew or could not have been unaware and which he did not disclose to the buyer.

*Article 41*

The seller must deliver goods which are free from any right or claim of a third party, unless the buyer agreed to take the goods subject to that right or claim. However, if such right or claim is based on industrial property or other intellectual property, the seller's obligation is governed by article 42.

*Article 42*

(1) The seller must deliver goods which are free from any right or claim of a third party based on industrial property or other intellectual property, of which at the time of the conclusion of the contract the seller knew or could not have been unaware, provided that the right or claim is based on industrial property or other intellectual property:

- (a) under the law of the State where the goods will be resold or otherwise used, if it was contemplated by the parties at the time of the conclusion of the contract that the goods would be resold or otherwise used in that State; or
- (b) in any other case, under the law of the State where the buyer has his place of business.

(2) The obligation of the seller under the preceding paragraph does not extend to cases where:

- (a) at the time of the conclusion of the contract the buyer knew or could not have been unaware of the right or claim; or
- (b) the right or claim results from the seller's compliance with technical drawings, designs, formulae or other such specifications furnished by the buyer.

#### *Article 43*

(1) The buyer loses the right to rely on the provisions of article 41 or article 42 if he does not give notice to the seller specifying the nature of the right or claim of the third party within a reasonable time after he has become aware or ought to have become aware of the right or claim.

(2) The seller is not entitled to rely on the provisions of the preceding paragraph if he knew of the right or claim of the third party and the nature of it.

#### *Article 44*

Notwithstanding the provisions of paragraph (1) of article 39 and paragraph (1) of article 43, the buyer may reduce the price in accordance with article 50 or claim damages, except for loss of profit, if he has a reasonable excuse for his failure to give the required notice.

### Section III. *Remedies for breach of contract by the seller*

#### *Article 45*

(1) If the seller fails to perform any of his obligations under the contract or this Convention, the buyer may:

- (a) exercise the rights provided in articles 46 to 52;
- (b) claim damages as provided in articles 74 to 77.

(2) The buyer is not deprived of any right he may have to claim damages by exercising his right to other remedies.

(3) No period of grace may be granted to the seller by a court or arbitral tribunal when the buyer resorts to a remedy for breach of contract.

*Article 46*

(1) The buyer may require performance by the seller of his obligations unless the buyer has resorted to a remedy which is inconsistent with this requirement.

(2) If the goods do not conform with the contract, the buyer may require delivery of substitute goods only if the lack of conformity constitutes a fundamental breach of contract and a request for substitute goods is made either in conjunction with notice given under article 39 or within a reasonable time thereafter.

(3) If the goods do not conform with the contract, the buyer may require the seller to remedy the lack of conformity by repair, unless this is unreasonable having regard to all the circumstances. A request for repair must be made either in conjunction with notice given under article 39 or within a reasonable time thereafter.

*Article 47*

(1) The buyer may fix an additional period of time of reasonable length for performance by the seller of his obligations.

(2) Unless the buyer has received notice from the seller that he will not perform within the period so fixed, the buyer may not, during that period, resort to any remedy for breach of contract. However, the buyer is not deprived thereby of any right he may have to claim damages for delay in performance.

*Article 48*

(1) Subject to article 49, the seller may, even after the date for delivery, remedy at his own expense any failure to perform his obligations, if he can do so without unreasonable delay and without causing the buyer unreasonable inconvenience or uncertainty of reimbursement by the seller of expenses advanced by the buyer. However, the buyer retains any right to claim damages as provided for in this Convention.

(2) If the seller requests the buyer to make known whether he will accept performance and the buyer does not comply with the request within a reasonable time, the seller may perform within the time indicated in his request. The buyer may not, during that period of time, resort to any remedy which is inconsistent with performance by the seller.

(3) A notice by the seller that he will perform within a specified period of time is assumed to include a request, under the preceding paragraph, that the buyer make known his decision.

(4) A request or notice by the seller under paragraph (2) or (3) of this article is not effective unless received by the buyer.

*Article 49*

(1) The buyer may declare the contract avoided:

- (a) if the failure by the seller to perform any of his obligations under the contract or this Convention amounts to a fundamental breach of contract; or
- (b) in case of non-delivery, if the seller does not deliver the goods within the additional period of time fixed by the buyer in accordance with paragraph (1) of article 47 or declares that he will not deliver within the period so fixed.

(2) However, in cases where the seller has delivered the goods, the buyer loses the right to declare the contract avoided unless he does so:

- (a) in respect of late delivery, within a reasonable time after he has become aware that delivery has been made;
- (b) in respect of any breach other than late delivery, within a reasonable time:
  - (i) after he knew or ought to have known of the breach;
  - (ii) after the expiration of any additional period of time fixed by the buyer in accordance with paragraph (1) of article 47, or after the seller has declared that he will not perform his obligations within such an additional period; or
  - (iii) after the expiration of any additional period of time indicated by the seller in accordance with paragraph (2) of article 48, or after the buyer has declared that he will not accept performance.

*Article 50*

If the goods do not conform with the contract and whether or not the price has already been paid, the buyer may reduce the price in the same proportion as the value that the goods actually delivered had at the time of the delivery bears to the value that conforming goods would have had at that time. However, if the seller remedies any failure to perform his obligations in accordance with article 37 or article 48 or if the buyer refuses to accept performance by the seller in accordance with those articles, the buyer may not reduce the price.

*Article 51*

(1) If the seller delivers only a part of the goods or if only a part of the goods delivered is in conformity with the contract, articles 46 to 50 apply in respect of the part which is missing or which does not conform.

(2) The buyer may declare the contract avoided in its entirety only if the failure to make delivery completely or in conformity with the contract amounts to a fundamental breach of the contract.

*Article 52*

(1) If the seller delivers the goods before the date fixed, the buyer may take delivery or refuse to take delivery.

(2) If the seller delivers a quantity of goods greater than that provided for in the contract, the buyer may take delivery or refuse to take delivery of the excess quantity. If the buyer takes delivery of all or part of the excess quantity, he must pay for it at the contract rate.

*CHAPTER III*

## OBLIGATIONS OF THE BUYER

*Article 53*

The buyer must pay the price for the goods and take delivery of them as required by the contract and this Convention.

Section I. *Payment of the price**Article 54*

The buyer's obligation to pay the price includes taking such steps and complying with such formalities as may be required under the contract or any laws and regulations to enable payment to be made.

*Article 55*

Where a contract has been validly concluded but does not expressly or implicitly fix or make provision for determining the price, the parties are considered, in the absence of any indication to the contrary, to have impliedly made reference to the price generally charged at the time of the conclusion of the contract for such goods sold under comparable circumstances in the trade concerned.

*Article 56*

If the price is fixed according to the weight of the goods, in case of doubt it is to be determined by the net weight.

*Article 57*

(1) If the buyer is not bound to pay the price at any other particular place, he must pay it to the seller:

- (a) at the seller's place of business; or
- (b) if the payment is to be made against the handing over of the goods or of documents, at the place where the handing over takes place.

(2) The seller must bear any increase in the expenses incidental to payment which is caused by a change in his place of business subsequent to the conclusion of the contract.

*Article 58*

(1) If the buyer is not bound to pay the price at any other specific time, he must pay it when the seller places either the goods or documents controlling their disposition at the buyer's disposal in accordance with the contract and this Convention. The seller may make such payment a condition for handing over the goods or documents.

(2) If the contract involves carriage of the goods, the seller may dispatch the goods on terms whereby the goods, or documents controlling their disposition, will not be handed over to the buyer except against payment of the price.

(3) The buyer is not bound to pay the price until he has had an opportunity to examine the goods, unless the procedures for delivery or payment agreed upon by the parties are inconsistent with his having such an opportunity.

*Article 59*

The buyer must pay the price on the date fixed by or determinable from the contract and this Convention without the need for any request or compliance with any formality on the part of the seller.

*Section II. Taking delivery**Article 60*

The buyer's obligation to take delivery consists:

- (a) in doing all the acts which could reasonably be expected of him in order to enable the seller to make delivery; and
- (b) in taking over the goods.

Section III. *Remedies for breach of contract by the buyer*

*Article 61*

(1) If the buyer fails to perform any of his obligations under the contract or this Convention, the seller may:

- (a) exercise the rights provided in articles 62 to 65;
- (b) claim damages as provided in articles 74 to 77.

(2) The seller is not deprived of any right he may have to claim damages by exercising his right to other remedies.

(3) No period of grace may be granted to the buyer by a court or arbitral tribunal when the seller resorts to a remedy for breach of contract.

*Article 62*

The seller may require the buyer to pay the price, take delivery or perform his other obligations, unless the seller has resorted to a remedy which is inconsistent with this requirement.

*Article 63*

(1) The seller may fix an additional period of time of reasonable length for performance by the buyer of his obligations.

(2) Unless the seller has received notice from the buyer that he will not perform within the period so fixed, the seller may not, during that period, resort to any remedy for breach of contract. However, the seller is not deprived thereby of any right he may have to claim damages for delay in performance.

*Article 64*

(1) The seller may declare the contract avoided:

- (a) if the failure by the buyer to perform any of his obligations under the contract or this Convention amounts to a fundamental breach of contract; or
- (b) if the buyer does not, within the additional period of time fixed by the seller in accordance with paragraph (1) of article 63, perform his obligation to pay the price or take delivery of the goods, or if he declares that he will not do so within the period so fixed.

(2) However, in cases where the buyer has paid the price, the seller loses the right to declare the contract avoided unless he does so:

- (a) in respect of late performance by the buyer, before the seller has become aware that performance has been rendered; or
- (b) in respect of any breach other than late performance by the buyer, within a reasonable time:
  - (i) after the seller knew or ought to have known of the breach; or
  - (ii) after the expiration of any additional period of time fixed by the seller in accordance with paragraph (1) of article 63, or after the buyer has declared that he will not perform his obligations within such an additional period.

#### *Article 65*

(1) If under the contract the buyer is to specify the form, measurement or other features of the goods and he fails to make such specification either on the date agreed upon or within a reasonable time after receipt of a request from the seller, the seller may, without prejudice to any other rights he may have, make the specification himself in accordance with the requirements of the buyer that may be known to him.

(2) If the seller makes the specification himself, he must inform the buyer of the details thereof and must fix a reasonable time within which the buyer may make a different specification. If, after receipt of such a communication, the buyer fails to do so within the time so fixed, the specification made by the seller is binding.

### *CHAPTER IV*

#### *PASSING OF RISK*

#### *Article 66*

Loss of or damage to the goods after the risk has passed to the buyer does not discharge him from his obligation to pay the price, unless the loss or damage is due to an act or omission of the seller.

#### *Article 67*

(1) If the contract of sale involves carriage of the goods and the seller is not bound to hand them over at a particular place, the risk passes to the buyer when the goods are handed over to the first carrier for transmission to the buyer in accordance with the contract of sale. If the seller is bound to hand the goods over to a carrier at a particular place, the risk does not pass to the buyer until the goods are handed over to the carrier at that place. The fact that the seller is authorized to retain documents controlling the disposition of the goods does not affect the passage of the risk.



(2) Nevertheless, the risk does not pass to the buyer until the goods are clearly identified to the contract, whether by markings on the goods, by shipping documents, by notice given to the buyer or otherwise.

*Article 68*

The risk in respect of goods sold in transit passes to the buyer from the time of the conclusion of the contract. However, if the circumstances so indicate, the risk is assumed by the buyer from the time the goods were handed over to the carrier who issued the documents embodying the contract of carriage. Nevertheless, if at the time of the conclusion of the contract of sale the seller knew or ought to have known that the goods had been lost or damaged and did not disclose this to the buyer, the loss or damage is at the risk of the seller.

*Article 69*

(1) In cases not within articles 67 and 68, the risk passes to the buyer when he takes over the goods or, if he does not do so in due time, from the time when the goods are placed at his disposal and he commits a breach of contract by failing to take delivery.

(2) However, if the buyer is bound to take over the goods at a place other than a place of business of the seller, the risk passes when delivery is due and the buyer is aware of the fact that the goods are placed at his disposal at that place.

(3) If the contract relates to goods not then identified, the goods are considered not to be placed at the disposal of the buyer until they are clearly identified to the contract.

*Article 70*

If the seller has committed a fundamental breach of contract, articles 67, 68 and 69 do not impair the remedies available to the buyer on account of the breach.

*CHAPTER V*

**PROVISIONS COMMON TO THE  
OBLIGATIONS OF THE SELLER AND OF THE BUYER**

**Section I.     *Anticipatory breach and instalment contracts***

*Article 71*

(1) A party may suspend the performance of his obligations if, after the conclusion of the contract, it becomes apparent that the other party will not perform a substantial part of his obligations as a result of:

- (a) a serious deficiency in his ability to perform or in his creditworthiness; or
- (b) his conduct in preparing to perform or in performing the contract.

(2) If the seller has already dispatched the goods before the grounds described in the preceding paragraph become evident, he may prevent the handing over of the goods to the buyer even though the buyer holds a document which entitles him to obtain them. The present paragraph relates only to the rights in the goods as between the buyer and the seller.

(3) A party suspending performance, whether before or after dispatch of the goods, must immediately give notice of the suspension to the other party and must continue with performance if the other party provides adequate assurance of his performance.

#### *Article 72*

(1) 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.

(2) If time allows, the party intending to declare the contract avoided must give reasonable notice to the other party in order to permit him to provide adequate assurance of his performance.

(3) The requirements of the preceding paragraph do not apply if the other party has declared that he will not perform his obligations.

#### *Article 73*

(1) In the case of a contract for delivery of goods by instalments, if the failure of one party to perform any of his obligations in respect of any instalment constitutes a fundamental breach of contract with respect to that instalment, the other party may declare the contract avoided with respect to that instalment.

(2) If one party's failure to perform any of his obligations in respect of any instalment gives the other party good grounds to conclude that a fundamental breach of contract will occur with respect to future instalments, he may declare the contract avoided for the future, provided that he does so within a reasonable time.

(3) A buyer who declares the contract avoided in respect of any delivery may, at the same time, declare it avoided in respect of deliveries already made or of future deliveries if, by reason of their interdependence, those deliveries could not be used for the purpose contemplated by the parties at the time of the conclusion of the contract.

## Section II. *Damages*

### *Article 74*

Damages for breach of 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 75*

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 as well as any further damages recoverable under article 74.

### *Article 76*

(1) 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 under article 75, 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 under article 74. If, 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.

(2) For the purposes of the preceding paragraph, 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 77*

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.

### Section III. *Interest*

#### *Article 78*

If a party fails to pay the price or any other sum that is in arrears, the other party is entitled to interest on it, without prejudice to any claim for damages recoverable under article 74.

### Section IV. *Exemptions*

#### *Article 79*

(1) A party is not liable for a failure to perform any of his obligations if he proved that the failure was due to an impediment beyond his control and that he could not reasonably be expected to have taken the impediment into account at the time of the conclusion of the contract or to have avoided or overcome it or its consequences.

(2) If the party's failure is due to the failure by a third person whom he has engaged to perform the whole or a part of the contract, that party is exempt from liability only if:

- (a) he is exempt under the preceding paragraph; and
- (b) the person whom he has so engaged would be so exempt if the provisions of that paragraph were applied to him.

(3) The exemption provided by this article has effect for the period during which the impediment exists.

(4) The party who fails to perform must give notice to the other party of the impediment and its effect on his ability to perform. If the notice is not received by the other party within a reasonable time after the party who fails to perform knew or ought to have known of the impediment, he is liable for damages resulting from such non-receipt.

(5) Nothing in this article prevents either party from exercising any right other than to claim damages under this Convention.

#### *Article 80*

A party may not rely on a failure of the other party to perform, to the extent that such failure was caused by the first party's act or omission.

Section V. *Effects of avoidance*

*Article 81*

(1) Avoidance of the contract releases both parties from their obligations under it, subject to any damages which may be due. Avoidance does not affect any provision of the contract for the settlement of disputes or any other provision of the contract governing the rights and obligations of the parties consequent upon the avoidance of the contract.

(2) A party who has performed the contract either wholly or in part may claim restitution from the other party of whatever the first party has supplied or paid under the contract. If both parties are bound to make restitution, they must do so concurrently.

*Article 82*

(1) The buyer loses the right to declare the contract avoided or to require the seller to deliver substitute goods if it is impossible for him to make restitution of the goods substantially in the condition in which he received them.

(2) The preceding paragraph does not apply:

- (a) if the impossibility of making restitution of the goods or of making restitution of the goods substantially in the condition in which the buyer received them is not due to his act or omission;
- (b) if the goods or part of the goods have perished or deteriorated as a result of the examination provided for in article 38; or
- (c) if the goods or part of the goods have been sold in the normal course of business or have been consumed or transformed by the buyer in the course of normal use before he discovered or ought to have discovered the lack of conformity.

*Article 83*

A buyer who has lost the right to declare the contract avoided or to require the seller to deliver substitute goods in accordance with article 82 retains all other remedies under the contract and this Convention.

*Article 84*

(1) If the seller is bound to refund the price, he must also pay interest on it, from the date on which the price was paid.

(2) The buyer must account to the seller for all benefits which he has derived from the goods or part of them:

- (a) if he must make restitution of the goods or part of them; or
- (b) if it is impossible for him to make restitution of all or part of the goods or to make restitution of all or part of the goods substantially in the condition in which he received them, but he has nevertheless declared the contract avoided or required the seller to deliver substitute goods.

Section VI. *Preservation of the goods*

*Article 85*

If the buyer is in delay in taking delivery of the goods or, where payment of the price and delivery of the goods are to be made concurrently, if he fails to pay the price, and the seller is either in possession of the goods or otherwise able to control their disposition, the seller must take such steps as are reasonable in the circumstances to preserve them. He is entitled to retain them until he has been reimbursed his reasonable expenses by the buyer.

*Article 86*

(1) If the buyer has received the goods and intends to exercise any right under the contract or this Convention to reject them, he must take such steps to preserve them as are reasonable in the circumstances. He is entitled to retain them until he has been reimbursed his reasonable expenses by the seller.

(2) If goods dispatched to the buyer have been placed at his disposal at their destination and he exercises the right to reject them, he must take possession of them on behalf of the seller, provided that this can be done without payment of the price and without unreasonable inconvenience or unreasonable expense. This provision does not apply if the seller or a person authorized to take charge of the goods on his behalf is present at the destination. If the buyer takes possession of the goods under this paragraph, his rights and obligations are governed by the preceding paragraph.

*Article 87*

A party who is bound to take steps to preserve the goods may deposit them in a warehouse of a third person at the expense of the other party provided that the expense incurred is not unreasonable.

*Article 88*

(1) A party who is bound to preserve the goods in accordance with article 85 or 86 may sell them by any appropriate means if there has been an unreasonable delay by the other party in taking possession of the goods or in taking them back or in paying the price or the cost of preservation, provided that reasonable notice of the intention to sell has been given to the other party.

(2) If the goods are subject to rapid deterioration or their preservation would involve unreasonable expense, a party who is bound to preserve the goods in accordance with article 85 or 86 must take reasonable measures to sell them. To the extent possible he must give notice to the other party of his intention to sell.

(3) A party selling the goods has the right to retain out of the proceeds of sale an amount equal to the reasonable expenses of preserving the goods and of selling them. He must account to the other party for the balance.

## PART IV

## FINAL PROVISIONS

*Article 89*

The Secretary-General of the United Nations is hereby designated as the depositary for this Convention.

*Article 90*

This Convention does not prevail over any international agreement which has already been or may be entered into and which contains provisions concerning the matters governed by this Convention, provided that the parties have their places of business in States parties to such agreement.

*Article 91*

(1) This Convention is open for signature at the concluding meeting of the United Nations Conference on Contracts for the International Sale of Goods and will remain open for signature by all States at the Headquarters of the United Nations, New York until 30 September 1981.

(2) This Convention is subject to ratification, acceptance or approval by the signatory States.

(3) This Convention is open for accession by all States which are not signatory States as from the date it is open for signature.

(4) Instruments of ratification, acceptance, approval and accession are to be deposited with the Secretary-General of the United Nations.

*Article 92*

(1) A Contracting State may declare at the time of signature, ratification, acceptance, approval or accession that it will not be bound by Part II of this Convention or that it will not be bound by Part III of this Convention.

(2) A Contracting State which makes a declaration in accordance with the preceding paragraph in respect of Part II or Part III of this Convention is not to be considered a Contracting State within paragraph (1) of article 1 of this Convention in respect of matters governed by the Part to which the declaration applies.

*Article 93*

(1) If a Contracting State has two or more territorial units in which, according to its constitution, different systems of law are applicable in relation to the matters dealt with in this Convention, it may, at the time of signature, ratification, acceptance, approval or accession, declare that this Convention is to extend to all its territorial units or only to one or more of them, and may amend its declaration by submitting another declaration at any time.

(2) These declarations are to be notified to the depositary and are to state expressly the territorial units to which the Convention extends.

(3) If, by virtue of a declaration under this article, this Convention extends to one or more but not all of the territorial units of a Contracting State, and if the place of business of a party is located in that State, this place of business, for the purposes of this Convention, is considered not to be in a Contracting State, unless it is in a territorial unit to which the Convention extends.

(4) If a Contracting State makes no declaration under paragraph (1) of this article, the Convention is to extend to all territorial units of that State.

*Article 94*

(1) Two or more Contracting States which have the same or closely related legal rules on matters governed by this Convention may at any time declare that the Convention is not to apply to contracts of sale or to their formation where the parties have their places of business in those States. Such declarations may be made jointly or by reciprocal unilateral declarations.



(2) A Contracting State which has the same or closely related legal rules on matters governed by this Convention as one or more non-Contracting States may at any time declare that the Convention is not to apply to contracts of sale or to their formation where the parties have their places of business in those States.

(3) If a State which is the object of a declaration under the preceding paragraph subsequently becomes a Contracting State, the declaration made will, as from the date on which the Convention enters into force in respect of the new Contracting State, have the effect of a declaration made under paragraph (1), provided that the new Contracting State joins in such declaration or makes a reciprocal unilateral declaration.

#### *Article 95*

Any State may declare at the time of the deposit of its instrument of ratification, acceptance, approval or accession that it will not be bound by subparagraph (1)(b) of article 1 of this Convention.

#### *Article 96*

A Contracting State whose legislation requires contracts of sale to be concluded in or evidenced by writing may at any time make a declaration in accordance with article 12 that any provision of article 11, article 29, or Part II of this Convention, that allows a contract of sale or its modification or termination by agreement or any offer, acceptance, or other indication of intention to be made in any form other than in writing, does not apply where any party has his place of business in that State.

#### *Article 97*

(1) Declarations made under this Convention at the time of signature are subject to confirmation upon ratification, acceptance or approval.

(2) Declarations and confirmations of declarations are to be in writing and be formally notified to the depositary.

(3) A declaration takes effect simultaneously with the entry into force of this Convention in respect of the State concerned. However, a declaration of which the depositary receives formal notification after such entry into force takes effect on the first day of the month following the expiration of six months after the date of its receipt by the depositary. Reciprocal unilateral declarations under article 94 take effect on the first day of the month following the expiration of six months after the receipt of the latest declaration by the depositary.

(4) Any State which makes a declaration under this Convention may withdraw it at any time by a formal notification in writing addressed to the depositary. Such withdrawal is to take effect on the first day of the month following the expiration of six months after the date of the receipt of the notification by the depositary.

(5) A withdrawal of a declaration made under article 94 renders inoperative, as from the date on which the withdrawal takes effect, any reciprocal declaration made by another State under that article.

*Article 98*

No reservations are permitted except those expressly authorized in this Convention.

*Article 99*

(1) This Convention enters into force, subject to the provisions of paragraph (6) of this article, on the first day of the month following the expiration of twelve months after the date of deposit of the tenth instrument of ratification, acceptance, approval or accession, including an instrument which contains a declaration made under article 92.

(2) When a State ratifies, accepts, approves or accedes to this Convention after the deposit of the tenth instrument of ratification, acceptance, approval or accession, this Convention, with the exception of the Part excluded, enters into force in respect of that State, subject to the provisions of paragraph (6) of this article, on the first day of the month following the expiration of twelve months after the date of the deposit of its instrument of ratification, acceptance, approval or accession.

(3) A State which ratifies, accepts, approves or accedes to this Convention and is a party to either or both the Convention relating to a Uniform Law on the Formation of Contracts for the International Sale of Goods done at The Hague on 1 July 1964 (1964 Hague Formation Convention) and the Convention relating to a Uniform Law on the International Sale of Goods done at The Hague on 1 July 1964 (1964 Hague Sales Convention) shall at the same time denounce, as the case may be, either or both the 1964 Hague Sales Convention and the 1964 Hague Formation Convention by notifying the Government of the Netherlands to that effect.

(4) A State party to the 1964 Hague Sales Convention which ratifies, accepts, approves or accedes to the present Convention and declares or has declared under article 92 that it will not be bound by Part II of this Convention shall at the time of ratification, acceptance, approval or accession denounce the 1964 Hague Sales Convention by notifying the Government of the Netherlands to that effect.

(5) A State party to the 1964 Hague Formation Convention which ratifies, accepts, approves or accedes to the present Convention and declares or has declared under article 92 that it will not be bound by Part III of this Convention shall at the time of ratification, acceptance, approval or accession denounce the 1964 Hague Formation Convention by notifying the Government of the Netherlands to that effect.

(6) For the purpose of this article, ratifications, acceptances, approvals and accessions in respect of this Convention by States parties to the 1964 Hague Formation Convention or to the 1964 Hague Sales Convention shall not be effective until such denunciations as may be required on the part of those States in respect of the latter two Conventions have themselves become effective. The depositary of this Convention shall consult with the Government of the Netherlands, as the depositary of the 1964 Conventions, so as to ensure necessary co-ordination in this respect.

*Article 100*

(1) This Convention applies to the formation of a contract only when the proposal for concluding the contract is made on or after the date when the Convention enters into force in respect of the Contracting States referred to in subparagraph (1)(a) or the Contracting State referred to in subparagraph (1)(b) of article 1.

(2) This Convention applies only to contracts concluded on or after the date when the Convention enters into force in respect of the Contracting States referred to in subparagraph (1)(a) or the Contracting State referred to in subparagraph (1)(b) of article 1.

*Article 101*

(1) A Contracting State may denounce this Convention, or Part II or Part III of the Convention, by a formal notification in writing addressed to the depositary.

(2) The denunciation takes effect on the first day of the month following the expiration of twelve months after the notification is received by the depositary. Where a longer period for the denunciation to take effect is specified in the notification, the denunciation takes effect upon the expiration of such longer period after the notification is received by the depositary.

DONE at Vienna, this eleventh day of April, one thousand nine hundred and eighty, in a single original, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized by their respective Governments, have signed this Convention.

## SCHEDULE 2

CONVENTION ON THE LIMITATION PERIOD  
IN THE INTERNATIONAL SALE OF GOODS

THE STATES PARTIES TO THE PRESENT CONVENTION,

CONSIDERING that international trade is an important factor in the promotion of friendly relations amongst States,

BELIEVING that the adoption of uniform rules governing the limitation period in the international sale of goods would facilitate the development of world trade,

HAVE AGREED as follows:

## PART I

## SUBSTANTIVE PROVISIONS

## SPHERE OF APPLICATION

*Article 1*

(1) This Convention shall determine when claims of a buyer and a seller against each other arising from a contract of international sale of goods or relating to its breach, termination or invalidity can no longer be exercised by reason of the expiration of a period of time. Such a period of time is hereinafter referred to as "the limitation period".

(2) This Convention shall not affect a particular time-limit within which one party is required, as a condition for the acquisition or exercise of his claim, to give notice to the other party or perform any act other than the institution of legal proceedings.

(3) In this Convention:

- (a) "buyer", "seller" and "party" mean persons who buy or sell, or agree to buy or sell, goods, and the successors to and assigns of their rights or obligations under the contract of sale;
- (b) "creditor" means a party who asserts a claim, whether or not such a claim is for a sum of money;
- (c) "debtor" means a party against whom a creditor asserts a claim;
- (d) "breach of contract" means the failure of a party to perform the contract or any performance not in conformity with the contract;
- (e) "legal proceedings" includes judicial, arbitral and administrative proceedings;
- (f) "person" includes corporation, company, partnership, association or entity, whether private or public, which can sue or be sued;

- (g) "writing" includes telegram and telex;
- (h) "year" means a year according to the Gregorian calendar.

### *Article 2*

For the purposes of this Convention:

- (a) a contract of sale of goods shall be considered international, if at the time of the conclusion of the contract, the buyer and the seller have their places of business in different States;
- (b) the fact that the parties have their place of business in different States shall be disregarded whenever this fact does not appear either from the contract or from any dealings between, or from information disclosed by, the parties at any time before or at the conclusion of the contract;
- (c) where a party to a contract of sale of goods has places of business in more than one State, the place of business shall be that which has the closest relationship to the contract and its performance, having regard to the circumstances known to or contemplated by the parties at the time of the conclusion of the contract;
- (d) where a party does not have a place of business, reference shall be made to his habitual residence;
- (e) neither the nationality of the parties nor the civil or commercial character of the parties or of the contract shall be taken into consideration.

### *Article 3*

(1) This Convention shall apply only if, at the time of the conclusion of the contract, the places of business of the parties to a contract of international sale of goods are in Contracting States.

(2) Unless this Convention provides otherwise, it shall apply irrespective of the law which would otherwise be applicable by virtue of the rules of private international law.

(3) This Convention shall not apply when the parties have expressly excluded its application.

### *Article 4*

This Convention shall not apply to sales:

- (a) of goods bought for personal, family or household use;
- (b) by auction;
- (c) on execution or otherwise by authority of law;
- (d) of stocks, shares, investment securities, negotiable instruments or money;

- (e) of ships, vessels, or aircraft;
- (f) of electricity.

#### *Article 5*

This Convention shall not apply to claims based upon:

- (a) death of, or personal injury to, any person;
- (b) nuclear damage caused by the goods sold;
- (c) a lien, mortgage or other security interest in property;
- (d) a judgement or award made in legal proceedings;
- (e) a document on which direct enforcement or execution can be obtained in accordance with the law of the place where such enforcement or execution is sought;
- (f) a bill of exchange, cheque or promissory note.

#### *Article 6*

(1) This Convention shall not apply to contracts in which the preponderant part of the obligations of the seller consists in the supply of labour or other services.

(2) Contracts for the supply of goods to be manufactured or produced shall be considered to be sales, unless the party who orders the goods undertakes to supply a substantial part of the materials necessary for such manufacture or production.

#### *Article 7*

In the interpretation and application of the provisions of this Convention, regard shall be had to its international character and to the need to promote uniformity.

### THE DURATION AND COMMENCEMENT OF THE LIMITATION PERIOD

#### *Article 8*

The limitation period shall be four years.

#### *Article 9*

(1) Subject to the provisions of articles 10, 11 and 12, the limitation period shall commence on the date of which the claim accrues.

- (2) The commencement of the limitation period shall not be postponed by:
- (a) a requirement that the party be given a notice as described in paragraph 2 of article 1, or
  - (b) a provision in an arbitration agreement that no right shall arise until an arbitration award has been made.

*Article 10*

(1) A claim arising from a breach of contract shall accrue on the date on which such breach occurs.

(2) A claim arising from a defect or other lack of conformity shall accrue on the date on which the goods are actually handed over to, or their tender is refused by, the buyer.

(3) A claim based on fraud committed before or at the time of the conclusion of the contract or during its performance shall accrue on the date on which the fraud was or reasonably could have been discovered.

*Article 11*

If the seller has given an express undertaking relating to the goods which is stated to have effect for a certain period of time, whether expressed in terms of a specific period of time or otherwise, the limitation period in respect of any claim arising from the undertaking shall commence on the date on which the buyer notifies the seller of the fact on which the claim is based, but not later than on the date of the expiration of the period of the undertaking.

*Article 12*

(1) If, in circumstances provided for by the law applicable to the contract, one party is entitled to declare the contract terminated before the time for performance is due, and exercises this right, the limitation period in respect of a claim based on any such circumstances shall commence on the date on which the declaration is made to the other party. If the contract is not declared to be terminated before performance becomes due, the limitation period shall commence on the date on which performance is due.

(2) The limitation period in respect of a claim arising out of a breach by one party of a contract for the delivery of or payment for goods by instalments shall, in relation to each separate instalment, commence on the date on which the particular breach occurs. If, under the law applicable to the contract, one party is entitled to declare the contract terminated by reason of such breach, and exercises this right, the limitation period in respect of all relevant instalments shall commence on the date on which the declaration is made to the other party.

## CESSATION AND EXTENSION OF THE LIMITATION PERIOD

*Article 13*

The limitation period shall cease to run when the creditor performs any act which, under the law of the court where the proceedings are instituted, is recognized as commencing judicial proceedings against the debtor or as asserting his claim in such proceedings already instituted against the debtor, for the purpose of obtaining satisfaction or recognition of his claim.

*Article 14*

(1) Where the parties have agreed to submit to arbitration, the limitation period shall cease to run when either party commences arbitral proceedings in the manner provided for in the arbitration agreement or by the law applicable to such proceedings.

(2) In the absence of any such provision, arbitral proceedings shall be deemed to commence on the date on which a request that the claim in dispute be referred to arbitration is delivered at the habitual residence or place of business of the other party or, if he has no such residence or place of business, then at his last known residence or place of business.

*Article 15*

In any legal proceedings other than those mentioned in articles 13 and 14, including legal proceedings commenced upon the occurrence of:

- (a) the death or incapacity of the debtor,
- (b) the bankruptcy or any state of insolvency affecting the whole of the property of the debtor, or
- (c) the dissolution or liquidation of a corporation, company, partnership, association or entity when it is the debtor, the limitation period shall cease to run when the creditor asserts his claim in such proceedings for the purpose of obtaining satisfaction or recognition of the claim, subject to the law governing the proceedings.

*Article 16*

For the purposes of articles 13, 14 and 15, any act performed by way of counterclaim shall be deemed to have been performed on the same date as the act performed in relation to the claim against which the counterclaim is raised, provided that both the claim and the counterclaim relate to the same contract or to several contracts concluded in the course of the same transaction.



*Article 17*

(1) Where a claim has been asserted in legal proceedings within the limitation period in accordance with articles 13, 14, 15 or 16, but such legal proceedings have ended without a decision binding on the merits of the claim, the limitation period shall be deemed to have continued to run.

(2) If, at the time such legal proceedings ended, the limitation period has expired or has less than one year to run, the creditor shall be entitled to a period of one year from the date on which the legal proceedings ended.

*Article 18*

(1) Where legal proceedings have been commenced against one debtor, the limitation period prescribed in this Convention shall cease to run against any other party jointly and severally liable with the debtor, provided that the creditor informs such party in writing within that period that the proceedings have been commenced.

(2) Where legal proceedings have been commenced by a subpurchaser against the buyer, the limitation period prescribed in this Convention shall cease to run in relation to the buyer's claim over against the seller, if the buyer informs the seller in writing within that period that the proceedings have been commenced.

(3) Where the legal proceedings referred to in paragraphs 1 and 2 of this article have ended, the limitation period in respect of the claim of the creditor or the buyer against the party jointly and severally liable or against the seller shall be deemed not to have ceased running by virtue of paragraphs 1 and 2 of this article, but the creditor or the buyer shall be entitled to an additional year from the date on which the legal proceedings ended, if at that time the limitation period had expired or had less than one year to run.

*Article 19*

Where the creditor performs, in the State in which the debtor has his place of business and before the expiration of the limitation period, any act, other than the acts described in articles 13, 14, 15 and 16, which under the law of that State has the effect of recommencing a limitation period, a new limitation period of four years shall commence on the date prescribed by that law.

*Article 20*

(1) Where the debtor, before the expiration of the limitation period, acknowledges in writing his obligation to the creditor, a new limitation period of four years shall commence to run from the date of such acknowledgement.

(2) Payment of interest or partial performance of an obligation by the debtor shall have the same effect as an acknowledgement under paragraph (1) of this article if it can reasonably be inferred from such payment or performance that the debtor acknowledges that obligation.

#### *Article 21*

Where, as a result of a circumstance which is beyond the control of the creditor and which he could neither avoid nor overcome, the creditor has been prevented from causing the limitation period to cease to run, the limitation period shall be extended so as not to expire before the expiration of one year from the date on which the relevant circumstance ceased to exist.

### MODIFICATION OF THE LIMITATION PERIOD BY THE PARTIES

#### *Article 22*

(1) The limitation period cannot be modified or affected by any declaration or agreement between the parties, except in the cases provided for in paragraph (2) of this article.

(2) The debtor may at any time during the running of the limitation period extend the period by a declaration in writing to the creditor. This declaration may be renewed.

(3) The provisions of this article shall not affect the validity of a clause in the contract of sale which stipulates that arbitral proceeding shall be commenced within a shorter period of limitation than that prescribed by this Convention, provided that such clause is valid under the law applicable to the contract of sale.

### GENERAL LIMIT OF THE LIMITATION PERIOD

#### *Article 23*

Notwithstanding the provisions of this Convention, a limitation period shall in any event expire not later than ten years from the date on which it commenced to run under articles 9, 10, 11 and 12 of this Convention.

### CONSEQUENCES OF THE EXPIRATION OF THE LIMITATION PERIOD

#### *Article 24*

Expiration of the limitation period shall be taken into consideration in any legal proceedings only if invoked by a party to such proceedings.

*Article 25*

(1) Subject to the provisions of paragraph (2) of this article and of article 24, no claim shall be recognized or enforced in any legal proceedings commenced after the expiration of the limitation period.

(2) Notwithstanding the expiration of the limitation period, one party may rely on his claim as a defence or for the purpose of set-off against a claim asserted by the other party, provided that in the latter case this may only be done:

- (a) if both claims relate to the same contract or to several contracts concluded in the course of the same transaction; or
- (b) if the claims could have been set-off at any time before the expiration of the limitation period.

*Article 26*

Where the debtor performs his obligation after the expiration of the limitation period, he shall not on that ground be entitled in any way to claim restitution even if he did not know at the time when he performed his obligation that the limitation period had expired.

*Article 27*

The expiration of the limitation period with respect to a principal debt shall have the same effect with respect to an obligation to pay interest on that debt.

## CALCULATION OF THE PERIOD

*Article 28*

(1) The limitation period shall be calculated in such a way that it shall expire at the end of the day which corresponds to the date on which the period commenced to run. If there is no such corresponding date, the period shall expire at the end of the last day of the last month of the limitation period.

(2) The limitation period shall be calculated by reference to the date of the place where the legal proceedings are instituted.

*Article 29*

Where the last day of the limitation period falls on an official holiday or other *dies non juridicus* precluding the appropriate legal action in the jurisdiction where the creditor institutes legal proceedings or asserts a claim as envisaged in articles 13, 14 or 15, the limitation period shall be extended so as not to expire until the end of the first day following that official holiday or *dies non juridicus* on which such proceedings could be instituted or on which such a claim could be asserted in that jurisdiction.

## INTERNATIONAL EFFECT

*Article 30*

The acts and circumstances referred to in articles 13 through 19 which have taken place in one Contracting State shall have effect for the purposes of this Convention in another Contracting State, provided that the creditor has taken all reasonable steps to ensure that the debtor is informed of the relevant act or circumstances as soon as possible.

## PART II

## IMPLEMENTATION

*Article 31*

(1) If a Contracting State has two or more territorial units in which, according to its constitution, different systems of law are applicable in relation to the matters dealt with in this Convention, it may, at the time of signature, ratification or accession, declare that this Convention shall extend to all its territorial units or only to one or more of them, and may amend its declaration by submitting another declaration at any time.

(2) These declarations shall be notified to the Secretary-General of the United Nations and shall state expressly the territorial units to which the Convention applies.

(3) If a Contracting State described in paragraph (1) of this article makes no declaration at the time of signature, ratification or accession, the Convention shall have effect within all territorial units of that State.

*Article 32*

Where in this Convention reference is made to the law of a State in which different systems of law apply, such reference shall be construed to mean the law of the particular legal system concerned.

*Article 33*

Each Contracting State shall apply the provisions of this Convention to contracts concluded on or after the date of the entry into force of this Convention.

## PART III

## DECLARATIONS AND RESERVATIONS

*Article 34*

Two or more Contracting States may at any time declare that contracts of sale between a seller having a place of business in one of these States and a buyer having a place of business in another of these States shall not be governed by this Convention, because they apply to the matters governed by this Convention the same or closely related legal rules.

*Article 35*

A Contracting State may declare, at the time of the deposit of its instrument of ratification or accession, that it will not apply the provisions of this Convention to actions for annulment of the contract.

*Article 36*

Any State may declare, at the time of the deposit of its instrument of ratification or accession, that it shall not be compelled to apply the provisions of article 24 of this Convention.

*Article 37*

This Convention shall not prevail over conventions already entered into or which may be entered into, and which contain provisions concerning the matters covered by this Convention, provided that the seller and buyer have their places of business in States parties to such a convention.

*Article 38*

(1) A Contracting State which is a party to an existing convention relating to the international sale of goods may declare, at the time of the deposit of its instrument of ratification or accession, that it will apply this Convention exclusively to contracts of international sale of goods as defined in such existing convention.

(2) Such declaration shall cease to be effective on the first day of the month following the expiration of twelve months after a new convention on the international sale of goods, concluded under the auspices of the United Nations, shall have entered into force.

*Article 39*

No reservation other than those made in accordance with articles 34, 35, 36 and 38 shall be permitted.

*Article 40*

(1) Declarations made under this Convention shall be addressed to the Secretary-General of the United Nations and shall take effect simultaneously with the entry of this Convention into force in respect of the State concerned, except declarations made thereafter. The latter declarations shall take effect on the first day of the month following the expiration of six months after the date of their receipt by the Secretary-General of the United Nations.

(2) Any State which has made a declaration under this Convention may withdraw it at any time by a notification addressed to the Secretary-General of the United Nations. Such withdrawal shall take effect on the first day of the month following the expiration of six months after the date of the receipt of the notification by the Secretary-General of the United Nations. In the case of a declaration made under article 34 of this Convention, such withdrawal shall also render inoperative, as from the date on which the withdrawal takes effect, any reciprocal declaration made by another State under that article.

## PART IV

## FINAL CLAUSES

*Article 41*

This Convention shall be open until 31 December 1975 for signature by all States at the Headquarters of the United Nations.

*Article 42*

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

*Article 43*

This Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

*Article 44*

(1) This Convention shall enter into force on the first day of the month following the expiration of six months after the date of the deposit of the tenth instrument of ratification or accession.

(2) For each State ratifying or acceding to this Convention after the deposit of the tenth instrument of ratification or accession, this Convention shall enter into force on the first day of the month following the expiration of six months after the date of the deposit of its instrument of ratification or accession.

*Article 45*

(1) Any Contracting State may denounce this Convention by notifying the Secretary-General of the United Nations to that effect.

(2) The denunciation shall take effect on the first day of the month following the expiration of twelve months after receipt of the notification by the Secretary-General of the United Nations.

*Article 46*

The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

S.Nu. 2003,c.9,s.13.

## SCHEDULE 3

CONVENTION ON THE LIMITATION PERIOD IN THE INTERNATIONAL SALE  
OF GOODS AS AMENDED BY THE PROTOCOL AMENDING THE CONVENTION  
ON THE LIMITATION PERIOD IN THE INTERNATIONAL SALE OF GOODS

THE STATES PARTIES TO THE PRESENT CONVENTION,

CONSIDERING that international trade is an important factor in the promotion of friendly relations amongst States,

BELIEVING that the adoption of uniform rules governing the limitation period in the international sale of goods would facilitate the development of world trade,

HAVE AGREED as follows:

## PART I

## SUBSTANTIVE PROVISIONS

## SPHERE OF APPLICATION

*Article 1*

(1) This Convention shall determine when claims of a buyer and a seller against each other arising from a contract of international sale of goods or relating to its breach, termination or invalidity can no longer be exercised by reason of the expiration of a period of time. Such a period of time is hereinafter referred to as "the limitation period".

(2) This Convention shall not affect a particular time-limit within which one party is required, as a condition for the acquisition or exercise of his claim, to give notice to the other party or perform any act other than the institution of legal proceedings.

(3) In this Convention:

- (a) "buyer", "seller" and "party" mean persons who buy or sell, or agree to buy or sell, goods, and the successors to and assigns of their rights or obligations under the contract of sale;
- (b) "creditor" means a party who asserts a claim, whether or not such a claim is for a sum of money;
- (c) "debtor" means a party against whom a creditor asserts a claim;
- (d) "breach of contract" means the failure of a party to perform the contract or any performance not in conformity with the contract;
- (e) "legal proceedings" includes judicial, arbitral and administrative proceedings;



- (f) "person" includes corporation, company, partnership, association or entity, whether private or public, which can sue or be sued;
- (g) "writing" includes telegram and telex;
- (h) "year" means a year according to the Gregorian calendar.

### *Article 2*

For the purposes of this Convention:

- (a) a contract of sale of goods shall be considered international, if at the time of the conclusion of the contract, the buyer and the seller have their places of business in different States;
- (b) the fact that the parties have their place of business in different States shall be disregarded whenever this fact does not appear either from the contract or from any dealings between, or from information disclosed by, the parties at any time before or at the conclusion of the contract;
- (c) where a party to a contract of sale of goods has places of business in more than one State, the place of business shall be that which has the closest relationship to the contract and its performance, having regard to the circumstances known to or contemplated by the parties at the time of the conclusion of the contract;
- (d) where a party does not have a place of business, reference shall be made to his habitual residence;
- (e) neither the nationality of the parties nor the civil or commercial character of the parties or of the contract shall be taken into consideration.

### *Article 3*

(1) This Convention shall apply only

- (a) if, at the time of the conclusion of the contract, the places of business of the parties to a contract of international sale of goods are in Contracting States; or
- (b) if the rules of private international law make the law of a Contracting State applicable to the contract of sale.

(2) This Convention shall not apply when the parties have expressly excluded its application.

*Article 4*

This Convention shall not apply to sales:

- (a) of goods bought for personal, family or household use, unless the seller, at any time before or at the conclusion of the contract, neither knew nor ought to have known that the goods were bought for any such use;
- (b) by auction;
- (c) on execution or otherwise by authority of law;
- (d) of stocks, shares, investment securities, negotiable instruments or money;
- (e) of ships, vessels, hovercraft or aircraft;
- (f) of electricity.

*Article 5*

This Convention shall not apply to claims based upon:

- (a) death of, or personal injury to, any person;
- (b) nuclear damage caused by the goods sold;
- (c) a lien, mortgage or other security interest in property;
- (d) a judgement or award made in legal proceedings;
- (e) a document on which direct enforcement or execution can be obtained in accordance with the law of the place where such enforcement or execution is sought;
- (f) a bill of exchange, cheque or promissory note.

*Article 6*

(1) This Convention shall not apply to contracts in which the preponderant part of the obligations of the seller consists in the supply of labour or other services.

(2) Contracts for the supply of goods to be manufactured or produced shall be considered to be sales, unless the party who orders the goods undertakes to supply a substantial part of the materials necessary for such manufacture or production.

*Article 7*

In the interpretation and application of the provisions of this Convention, regard shall be had to its international character and to the need to promote uniformity.

**THE DURATION AND COMMENCEMENT OF THE LIMITATION PERIOD***Article 8*

The limitation period shall be four years.

*Article 9*

(1) Subject to the provisions of articles 10, 11 and 12 the limitation period shall commence on the date of which the claim accrues.

- (2) The commencement of the limitation period shall not be postponed by:
- (a) a requirement that the party be given a notice as described in paragraph 2 of article 1, or
  - (b) a provision in an arbitration agreement that no right shall arise until an arbitration award has been made.

*Article 10*

(1) A claim arising from a breach of contract shall accrue on the date on which such breach occurs.

(2) A claim arising from a defect or other lack of conformity shall accrue on the date on which the goods are actually handed over to, or their tender is refused by, the buyer.

(3) A claim based on fraud committed before or at the time of the conclusion of the contract or during its performance shall accrue on the date on which the fraud was or reasonably could have been discovered.

*Article 11*

If the seller has given an express undertaking relating to the goods which is stated to have effect for a certain period of time, whether expressed in terms of a specific period of time or otherwise, the limitation period in respect of any claim arising from the undertaking shall commence on the date on which the buyer notifies the seller of the fact on which the claim is based, but not later than on the date of the expiration of the period of the undertaking.

*Article 12*

(1) If, in circumstances provided for by the law applicable to the contract, one party is entitled to declare the contract terminated before the time for performance is due, and exercises this right, the limitation period in respect of a claim based on any such circumstances shall commence on the date on which the declaration is made to the other party. If the contract is not declared to be terminated before performance becomes due, the limitation period shall commence on the date on which performance is due.

(2) The limitation period in respect of a claim arising out of a breach by one party of a contract for the delivery of or payment for goods by instalments shall, in relation to each separate instalment, commence on the date on which the particular breach occurs. If, under the law applicable to the contract, one party is entitled to declare the contract terminated by reason of such breach, and exercises this right, the limitation period in respect of all relevant instalments shall commence on the date on which the declaration is made to the other party.

## CESSATION AND EXTENSION OF THE LIMITATION PERIOD

### *Article 13*

The limitation period shall cease to run when the creditor performs any act which, under the law of the court where the proceedings are instituted, is recognized as commencing judicial proceedings against the debtor or as asserting his claim in such proceedings already instituted against the debtor, for the purpose of obtaining satisfaction or recognition of his claim.

### *Article 14*

(1) Where the parties have agreed to submit to arbitration, the limitation period shall cease to run when either party commences arbitral proceedings in the manner provided for in the arbitration agreement or by the law applicable to such proceedings.

(2) In the absence of any such provision, arbitral proceedings shall be deemed to commence on the date on which a request that the claim in dispute be referred to arbitration is delivered at the habitual residence or place of business of the other party or, if he has no such residence or place of business, then at his last known residence or place of business.

### *Article 15*

In any legal proceedings other than those mentioned in articles 13 and 14, including legal proceedings commenced upon the occurrence of:

- (a) the death or incapacity of the debtor,
- (b) the bankruptcy or any state of insolvency affecting the whole of the property of the debtor, or
- (c) the dissolution or liquidation of a corporation, company, partnership, association or entity when it is the debtor, the limitation period shall cease to run when the creditor asserts his claim in such proceedings for the purpose of obtaining satisfaction or recognition of the claim, subject to the law governing the proceedings.

*Article 16*

For the purposes of articles 13, 14 and 15, any act performed by way of counterclaim shall be deemed to have been performed on the same date as the act performed in relation to the claim against which the counterclaim is raised, provided that both the claim and the counterclaim relate to the same contract or to several contracts concluded in the course of the same transaction.

*Article 17*

(1) Where a claim has been asserted in legal proceedings within the limitation period in accordance with article 13, 14, 15 or 16, but such legal proceedings have ended without a decision binding on the merits of the claim, the limitation period shall be deemed to have continued to run.

(2) If, at the time such legal proceedings ended, the limitation period has expired or has less than one year to run, the creditor shall be entitled to a period of one year from the date on which the legal proceedings ended.

*Article 18*

(1) Where legal proceedings have been commenced against one debtor, the limitation period prescribed in this Convention shall cease to run against any other party jointly and severally liable with the debtor, provided that the creditor informs such party in writing within that period that the proceedings have been commenced.

(2) Where legal proceedings have been commenced by a subpurchaser against the buyer, the limitation period prescribed in this Convention shall cease to run in relation to the buyer's claim over against the seller, if the buyer informs the seller in writing within that period that the proceedings have been commenced.

(3) Where the legal proceedings referred to in paragraphs 1 and 2 this article have ended, the limitation period in respect of the claim of the creditor or the buyer against the party jointly and severally liable or against the seller shall be deemed not to have ceased running by virtue of paragraphs 1 and 2 of this article, but the creditor or the buyer shall be entitled to an additional year from the date on which the legal proceedings ended, if at that time the limitation period had expired or had less than one year to run.

*Article 19*

Where the creditor performs, in the State in which the debtor has his place of business and before the expiration of the limitation period, any act, other than the acts described in articles 13, 14, 15 and 16, which under the law of that State has the effect of recommencing a limitation period, a new limitation period of four years shall commence on the date prescribed by that law.

*Article 20*

(1) Where the debtor, before the expiration of the limitation period, acknowledges in writing his obligation to the creditor, a new limitation period of four years shall commence to run from the date of such acknowledgement.

(2) Payment of interest or partial performance of an obligation by the debtor shall have the same effect as an acknowledgement under paragraph (1) of this article if it can reasonably be inferred from such payment or performance that the debtor acknowledges that obligation.

*Article 21*

Where, as a result of a circumstance which is beyond the control of the creditor and which he could neither avoid nor overcome, the creditor has been prevented from causing the limitation period to cease to run, the limitation period shall be extended so as not to expire before the expiration of one year from the date on which the relevant circumstance ceased to exist.

## MODIFICATION OF THE LIMITATION PERIOD BY THE PARTIES

*Article 22*

(1) The limitation period cannot be modified or affected by any declaration or agreement between the parties, except in the cases provided for in paragraph (2) of this article.

(2) The debtor may at any time during the running of the limitation period extend the period by a declaration in writing to the creditor. This declaration may be renewed.

(3) The provisions of this article shall not affect the validity of a clause in the contract of sale which stipulates that arbitral proceeding shall be commenced within a shorter period of limitation than that prescribed by this Convention, provided that such clause is valid under the law applicable to the contract of sale.

## GENERAL LIMIT OF THE LIMITATION PERIOD

*Article 23*

Notwithstanding the provisions of this Convention, a limitation period shall in any event expire not later than ten years from the date on which it commenced to run under articles 9, 10, 11 and 12 of this Convention.

## CONSEQUENCES OF THE EXPIRATION OF THE LIMITATION PERIOD

### *Article 24*

Expiration of the limitation period shall be taken into consideration in any legal proceedings only if invoked by a party to such proceedings.

### *Article 25*

(1) Subject to the provisions of paragraph (2) of this article and of article 24, no claim shall be recognized or enforced in any legal proceedings commenced after the expiration of the limitation period.

(2) Notwithstanding the expiration of the limitation period, one party may rely on his claim as a defence or for the purpose of set-off against a claim asserted by the other party, provided that in the latter case this may only be done:

- (a) if both claims relate to the same contract or to several contracts concluded in the course of the same transaction; or
- (b) if the claims could have been set-off at any time before the expiration of the limitation period.

### *Article 26*

Where the debtor performs his obligation after the expiration of the limitation period, he shall not on that ground be entitled in any way to claim restitution even if he did not know at the time when he performed his obligation that the limitation period had expired.

### *Article 27*

The expiration of the limitation period with respect to a principal debt shall have the same effect with respect to an obligation to pay interest on that debt.

## CALCULATION OF THE PERIOD

### *Article 28*

(1) The limitation period shall be calculated in such a way that it shall expire at the end of the day which corresponds to the date on which the period commenced to run. If there is no such corresponding date, the period shall expire at the end of the last day of the last month of the limitation period.

(2) The limitation period shall be calculated by reference to the date of the place where the legal proceedings are instituted.

*Article 29*

Where the last day of the limitation period falls on an official holiday or other *dies non juridicus* precluding the appropriate legal action in the jurisdiction where the creditor institutes legal proceedings or asserts a claim as envisaged in articles 13, 14 or 15, the limitation period shall be extended so as not to expire until the end of the first day following that official holiday or *dies non juridicus* on which such proceedings could be instituted or on which such a claim could be asserted in that jurisdiction.

## INTERNATIONAL EFFECT

*Article 30*

The acts and circumstances referred to in articles 13 through 19 which have taken place in one Contracting State shall have effect for the purposes of this Convention in another Contracting State, provided that the creditor has taken all reasonable steps to ensure that the debtor is informed of the relevant act or circumstances as soon as possible.

## PART II

## IMPLEMENTATION

*Article 31*

(1) If a Contracting State has two or more territorial units in which, according to its constitution, different systems of law are applicable in relation to the matters dealt with in this Convention, it may, at the time of signature, ratification or accession, declare that this Convention shall extend to all its territorial units or only to one or more of them, and may amend its declaration by submitting another declaration at any time.

(2) These declarations shall be notified to the Secretary-General of the United Nations and shall state expressly the territorial units to which the Convention applies.

(3) If a Contracting State described in paragraph (1) of this article makes no declaration at the time of signature, ratification or accession, the Convention shall have effect within all territorial units of that State.

(4) If, by virtue of a declaration under this article, this Convention extends to one or more but not all of the territorial units of a Contracting State, and if the place of business of a party to a contract is located in that State, this place of business shall, for the purposes of this Convention, be considered not to be in a Contracting State, unless it is in a territorial unit to which the Convention extends.



*Article 32*

Where in this Convention reference is made to the law of a State in which different systems of law apply, such reference shall be construed to mean the law of the particular legal system concerned.

*Article 33*

Each Contracting State shall apply the provisions of this Convention to contracts concluded on or after the date of the entry into force of this Convention.

## PART III

## DECLARATIONS AND RESERVATIONS

*Article 34*

(1) Two or more Contracting States which have the same or closely related legal rules on matters governed by this Convention may at any time declare that the Convention shall not apply to contracts of international sale of goods where the parties have their places of business in those States. Such declarations may be made jointly or by reciprocal unilateral declarations.

(2) A Contracting State which has the same or closely related legal rules on matters governed by this Convention as one or more non-Contracting States may at any time declare that the Convention shall not apply to contracts of international sale of goods where the parties have their places of business in those States.

(3) If a State which is the object of a declaration under paragraph (2) of this article subsequently becomes a Contracting State, the declaration made shall, as from the date on which this Convention enters into force in respect of the new Contracting State, have the effect of a declaration made under paragraph (1), provided that the new Contracting State joins in such declaration or makes a reciprocal unilateral declaration.

*Article 35*

A Contracting State may declare, at the time of the deposit of its instrument of ratification or accession, that it will not apply the provisions of this Convention to actions for annulment of the contract.

*Article 36*

Any State may declare, at the time of the deposit of its instrument of ratification or accession, that it shall not be compelled to apply the provisions of article 24 of this Convention.

*Article 36 bis (Article XII of the Protocol)*

Any State may declare at the time of the deposit of its instrument of accession or its notification under article 43 bis that it will not be bound by the amendments to article 3 made by article I of the 1980 Protocol. A declaration made under this article shall be in writing and be formally notified to the depositary.

*Article 37*

This Convention shall not prevail over any international agreement which has already been or may be entered into, and which contains provisions concerning the matters governed by this Convention, provided that the seller and buyer have their places of business in States parties to such agreement.

*Article 38*

(1) A Contracting State which is a party to an existing convention relating to the international sale of goods may declare, at the time of the deposit of its instrument of ratification or accession, that it will apply this Convention exclusively to contracts of international sale of goods as defined in such existing convention.

(2) Such declaration shall cease to be effective on the first day of the month following the expiration of twelve months after a new convention on the international sale of goods, concluded under the auspices of the United Nations, shall have entered into force.

*Article 39*

No reservation other than those made in accordance with articles 34, 35, 36, 36 bis and 38 shall be permitted.

*Article 40*

(1) Declarations made under this Convention shall be addressed to the Secretary-General of the United Nations and shall take effect simultaneously with the entry of this Convention into force in respect of the State concerned, except declarations made thereafter. The latter declarations shall take effect on the first day of the month following the expiration of six months after the date of their receipt by the Secretary-General of the United Nations. Reciprocal unilateral declarations under article 34 shall take effect on the first day of the month following the expiration of six months after the receipt of the latest declaration by the Secretary-General of the United Nations.

(2) Any State which has made a declaration under this Convention may withdraw it at any time by a notification addressed to the Secretary-General of the United Nations. Such withdrawal shall take effect on the first day of the month following the expiration of six months after the date of the receipt of the notification by the Secretary-General of the United Nations. In the case of a declaration made under article 34 of this Convention, such withdrawal shall also render inoperative, as from the date on which the withdrawal takes effect, any reciprocal declaration made by another State under that article.

## PART IV

## FINAL CLAUSES

*Article 41*

This Convention shall be open until 31 December 1975 for signature by all States at the Headquarters of the United Nations.

*Article 42*

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

*Article 43*

This Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

*Article 43 bis (Article X of the Protocol)*

If a State ratifies or accedes to the 1974 Limitation Convention after the entry into force of the 1980 Protocol, the ratification or accession shall also constitute a ratification or an accession to the Convention as amended by the 1980 Protocol if the State notifies the depositary accordingly.

*Article 43 ter* (Article VIII (2) of the Protocol)

Accession to the 1980 Protocol by any State which is not a Contracting Party to the 1974 Limitation Convention shall have the effect of accession to that Convention as amended by the Protocol, subject to the provisions of article 44 bis.

*Article 44*

(1) This Convention shall enter into force on the first day of the month following the expiration of six months after the date of the deposit of the tenth instrument of ratification or accession.

(2) For each State ratifying or acceding to this Convention after the deposit of the tenth instrument of ratification or accession, this Convention shall enter into force on the first day of the month following the expiration of six months after the date of the deposit of its instrument of ratification or accession.

*Article 44 bis* (Article XI of the Protocol)

Any State which becomes a Contracting Party to the 1974 Limitation Convention, as amended by the 1980 Protocol, shall, unless it notifies the depositary to the contrary, be considered to be also a Contracting Party to the Convention, unamended, in relation to any Contracting Party to the Convention not yet a Contracting Party to the 1980 Protocol.

*Article 45*

(1) Any Contracting State may denounce this Convention by notifying the Secretary-General of the United Nations to that effect.

(2) The denunciation shall take effect on the first day of the month following the expiration of twelve months after receipt of the notification by the Secretary-General of the United Nations.

*Article 45 bis* (Article XIII (3) of the Protocol)

Any Contracting State in respect of which the 1980 Protocol ceases to have effect by the application of paragraphs (1) and (2) of article XIII of 1980 Protocol shall remain a Contracting Party to the 1974 Limitation Convention, unamended, unless it denounces the unamended Convention in accordance with article 45 of that Convention.

*Article 46*

The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

S.Nu. 2003,c.9,s.13.

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