

**The Seller's Obligations and the Remedies of Nonperformance
Under the UN Convention on the International Sales of Goods:
A Comparative Study with the Taiwan Civil Code**

Tsung-Fu Chen*

Abstract

The UN Convention on the International Sales of Goods governs the seller's obligations and the remedies of seller's nonperformance, both of which are the main topics of this paper, where it also makes a comparison with the Taiwan laws. It is aimed to understand the common and different rules between the Taiwan law and CISG on the law of sales contract.

This paper points out that CISG is based on the principle of validity of contract to develop the remedies of seller's non-performance. CISG offers the seller a right to cure his defective performance and a right to substitute performance if possible, both of which are not governed by the Taiwan Civil Code. CISG recognizes the buyer's right to specific performance, with an obligation to notice in order for the seller to perform his duty as possible as he can. Also, the buyer is not entitled to terminate a contract unless the seller's non-performance is a fundamental breach of a contract, which is designed to maintain the principle of validity of contract. The right to termination is not based on the fault principle, different from the Taiwan law. CISG creates the doctrine of impediment beyond the debtor's control for him to avoid liability of compensation, which is also different from the Taiwan law, where Taiwan compensation law is based on the fault principle, although their rules are not significantly different in practice.

Where both CISG and Taiwan Civil Code stipulate the rules for a buyer to make claims on specific performance, substitute performance, repair, and price

* Professor of Law, College of Law, National Taiwan University.
E-mail: congfu@ms6.hinet.net

reduction, their practices are different from each other and the CISG rules provide a good reference for Taiwan law when interpreting its Civil Code.

In addition to a comparison between CISG and Taiwan Civil Code, this paper also introduce the relevant rules of law stipulated in Unidroit Principles of International Commercial Contracts, Principles of European Contract Law and Draft Common Frame of Reference so as to clarify the application of CISG in the international contract laws. All of these international contract documents demonstrate the significance of CISG in the trend of development of international contract law.

Keywords: CISG, seller's obligations, remedies for breach of contract, right to termination, right to damages, impediments of performance, fundamental breach of contract