

# **“Contracting to Sell Goods Internationally”**

## **A RESEARCH GUIDE TO THE UN CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS**

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## **I. RESEARCH GUIDE SCOPE AND PURPOSE**

This guide is a tool for those who are unfamiliar with the United Nations Conventions on Contracts for the International Sale of Goods,<sup>1</sup> (“CISG” or “the Convention”), and need a basic guide to navigate through the broad spectrum of information which is available on the Convention. This guide begins with a brief discussion on the history and objectives of the CISG, and then suggests the best electronic and print sources for someone who has just begun their research. The guide will continue to explain how to find and provide tips on how to use the most helpful, current materials available to ensure that research on CISG can be done quickly and efficiently.

## **II. HISTORY AND PURPOSE OF THE CISG**

In response to the disparities in national laws governing international trade, the United Nations General Assembly in 1966 established the United Nations Commission on International Trade Law (“UNCITRAL” or “the Commission”).<sup>2</sup> UNCITRAL is the United Nations main legal body focusing on international trade law.<sup>3</sup> Their general mandate is to “further the progressive harmonization and unification of the law of international trade.”<sup>4</sup> The Commission in fulfillment of part of this mandate adopted the CISG by a diplomatic conference which was held on 11 April 1980.<sup>5</sup> The CISG entered into force on 1 January 1988.<sup>6</sup> In the 25 years since

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<sup>1</sup> United Nations Convention on Contracts for the International Sale of Goods, *opened for signature* Apr. 11, 1980, S. TREATY DOC. NO. 98-9 (1983), 1489 U.N.T.S. 3 [hereinafter CISG].

<sup>2</sup> United Nations Commission on International Trade Law, Origin, Mandate and Composition of UNCITRAL, <http://www.uncitral.org/uncitral/en/about/origin.html> (last visited Dec. 1, 2006).

<sup>3</sup> ASIL, ASIL Guide to Electronic Resources for International Law, <http://www.asil.org/resource/backup1217/iel1.htm> (last visited Dec. 1, 2006).

<sup>4</sup> *Id.*

<sup>5</sup> United Nations Commission on International Trade Law, 1980 - United Nations Convention on Contracts for the International Sale of Goods (CISG), [http://www.uncitral.org/uncitral/en/uncitral\\_texts/sale\\_goods/1980CISG.html](http://www.uncitral.org/uncitral/en/uncitral_texts/sale_goods/1980CISG.html) (last visited Dec. 1, 2006).

<sup>6</sup> *Id.*

its inception, the CISG has increased its number of contracting parties. As of November 30, 2006 they have 70 contracting parties.<sup>7</sup>

Before the CISG was adopted, sales law was traditionally governed by the domestic law from different jurisdictions. This resulted in potential conflicts because international sales contracts need to be coordinated by conflict rules.<sup>8</sup> Therefore the objective in adopting the CISG was to provide a “uniform framework for contracts of sale of goods between parties whose places of business are in different States,”<sup>9</sup> “when the States are Contracting States.”<sup>10</sup> To achieve this objective, the Convention established a code of legal rules which govern “the formation of contracts for the international sale of goods, the obligations of the buyer and seller, remedies for breach of contract and other aspects of the contract.”<sup>11</sup>

Through the CISG’s code of legal rules, there have been several improvements in the arena of international sales law. One of these improvements is the increased “predictability in international trade law” which has resulted in a reduction in transaction costs.<sup>12</sup> Two more improvements have been the simplification of contract negotiation and the simplification of dispute resolution.<sup>13</sup> However, in order to be able to continue these improvements, researchers first need to know how to find and use the most helpful and current interpretive materials and court decisions available.

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<sup>7</sup> United Nations Treaty Collection, Multilateral Treaties Deposited with the Secretary-General, <http://untreaty.un.org/ENGLISH/bible/englishinternetbible/partI/chapterX/treaty20.asp> (last visited December 1, 2006). The Multilateral Treaties Deposited with the Secretary-General website is updated daily and provides status information on the CISG and other multilateral treaties.

<sup>8</sup> Filip De Ly, Sources of International Sales Law: An Eclectic Model, 25 J.L. COM. 1 (2005).

<sup>9</sup> U.N. Comm’n on Int’l Trade Law, Introduction to the digest of case law on the United Nations Sales Convention: Note by the Secretariat, ¶ 1, U.N. Doc. A/CN.9/562 (June 14-25, 2004), available at <http://daccessdds.un.org/doc/UNDOC/GEN/V04/548/75/PDF/V0454875.pdf?OpenElement>.

<sup>10</sup> CISG, *supra* note 1, art. 1(a).

<sup>11</sup> United Nations Commission on International Trade Law, 1980 - United Nations Convention on Contracts for the International Sale of Goods (CISG), *supra* note 5.

<sup>12</sup> U.N. Comm’n on Int’l Trade Law, *supra* note 9.

<sup>13</sup> Claire M. Germain, *United Nations Convention on Contracts for the International Sale of Goods: Guide to Research and Literature*, <http://library.lawschool.cornell.edu/guides/cisg/> (last visited Dec. 1, 2006).

### III. STARTING POINTS FOR CISG RESEARCH

The CISG has been open for signature since 1980<sup>14</sup> and as a result this has provided enough time for the mass publication of books<sup>15</sup> and journal articles<sup>16</sup>, the creation of multiple online databases<sup>17</sup> and research guides<sup>18</sup>, and the resolution of more than 1,000 disputes in courts<sup>19</sup> relating to and discussing the CISG. This accumulation of literature on the CISG makes it difficult for the experienced, let alone the novice CISG researcher to find the most helpful and current materials available.

#### A. Starting Point: Print Sources

There is a wealth of information, scholarly articles, and books available for someone who would like to research the CISG. However, one of the best print source for a researcher unfamiliar with the CISG to use to begin researching in the GUIDE TO PRACTICAL APPLICATIONS OF THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS.<sup>20</sup> This comprehensive guide provides a summary of the CISG; a 27 page checklist for a CISG practitioner; a detailed analysis including summaries, citations to official records, explanations of modifications to the text, and annotations by scholars and practitioners on the different parts of the CISG; and an Annotated Export Contract. In addition to providing

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<sup>14</sup> United Nations Treaty Collection, *supra* note 7.

<sup>15</sup> SONJA KRUISINGA, (NON-)CONFORMITY IN THE 1980 UN CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS: A UNIFORM CONCEPT? 2 (Intersentia 2004); ALBERT H. KRITZER, GUIDE TO PRACTICAL APPLICATIONS OF THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS, (Kluwer Law and Taxation Publishers 1989).

<sup>16</sup> Stewart F. Hancock, Jr., *A Uniform Commercial Code for International Sales? We Have it Now*, 67 N.Y. ST. B. J.20 (Jan. 1995); Franco Ferrari, *Fundamental Breach of Contract Under the UN Sales Convention --25 Years of Article 25 CISG*, 25 J.L. & COM. 489 (2006).

<sup>17</sup> Pace Law School CISG Database, <http://www.cisg.law.pace.edu/>, (last visited Dec. 6, 2006); Unilex.com, Unilex on CISG & UNIDROIT Principles – International Case Law and Bibliography, <http://www.unilex.info/> (last visited Dec. 1, 2006); Autonomous Network of CISG Web Sites, <http://cisgw3.law.pace.edu/network.html> (last visited Dec. 1, 2006)

<sup>18</sup> Claire M. Germain, *supra* note 13; Duncan Alford, *A guide on the Harmonization of International Commercial Law*, [http://nyulawglobal.org/globalex/unification\\_harmonization.htm](http://nyulawglobal.org/globalex/unification_harmonization.htm) (last visited Dec. 1, 2006).

<sup>19</sup> U.N. Comm'n on Int'l Trade Law, *supra* note 9, at ¶2.

<sup>20</sup> ALBERT H. KRITZER, *supra* note 15.

researchers with a wealth of information, the book is also easily navigated by its index. Unfortunately, the book was published in 1989, so it is important to go to other sources to make sure the information is up to date and accurate.

### **B. Starting Point: Electronic Sources**

The best electronic source when beginning researching the CISG is the official website of UNCITRAL because it is the organization which was given the mandate by the UN to adopt the CISG.<sup>21</sup> UNCITRAL's website can be found at [www.uncitral.org](http://www.uncitral.org). This website contains information regarding UNCITRAL's origin and mandate,<sup>22</sup> the work they have carried out,<sup>23</sup> and the methods they used to carry out those works.<sup>24</sup> However, the most important sections of this website for conducting CISG research can be found under UNCITRAL Texts & Status: International Sale of Goods (CISG).<sup>25</sup> Within this section of the website are the following useful categories: the Text of the Convention and an Explanatory Note; the Status of the Convention; the Travaux préparatoires,<sup>26</sup> the Proceedings of the UNCITRAL - VIAC Joint Conference: "Celebrating Success: 25 years United Nation Convention on Contracts for the International Sale of Goods (CISG)", 15-16 March 2005, Vienna; and the UNCITRAL Digest of Case Law on the United Nations Convention on the International Sales of Goods.<sup>27</sup> All of sections can be found

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<sup>21</sup> United Nations Commission on International Trade Law, Origin, Mandate and Composition of UNCITRAL, *supra* note 2. "The United Nations Commission on International Trade Law (UNCITRAL), in accordance with its mandate, has undertaken the preparation of the tools necessary for a thorough understanding of the Convention and for its uniform interpretation." These tools can be located on the UNCITRAL website. U.N. Comm'n on Int'l Trade Law, *supra* note 9, ¶ 10.

<sup>22</sup> United Nations Commission on International Trade Law, Origin, Mandate and Composition of UNCITRAL, *supra* note 2.

<sup>23</sup> United Nations Commission on International Trade Law, Work Carried out by UNCITRAL, <http://www.uncitral.org/uncitral/en/about/work.html> (last visited Dec. 1, 2006).

<sup>24</sup> United Nations Commission on International Trade Law, Methods of Work, <http://www.uncitral.org/uncitral/en/about/methods.html> (last visited Dec. 1, 2006).

<sup>25</sup> United Nations Commission on International Trade Law, 1980 – United Nations Convention on Contracts for the International Sale of Goods, *supra* note 5.

<sup>26</sup> The Travaux préparatoires contains "[m]aterials used in preparing the ultimate form of an agreement or statute, and esp. of an international treaty; the draft or legislative history of a treaty." BLACK'S LAW DICTIONARY (8th ed. 2004).

<sup>27</sup> United Nations Commission on International Trade Law, 1980 - United Nations Convention on Contracts for the International Sale of Goods (CISG), *supra* note 5.

by Selecting the UNCITRAL Texts & Status link in the tool bar on the right hand side of the UNCITRAL website, followed by the International Sale of Goods (CISG) link, and then the 1980 - United Nations Convention on Contracts for the International Sale of Goods (CISG) link.<sup>28</sup> These sections are all available in English; however they can also be viewed in French, Russian, Spanish, Arabic, and Chinese by selecting the appropriate language button at the top of the page before selecting the links.<sup>29</sup>

### *I. Text and Explanatory Note*

The Text and Explanatory Note section contains a skeletal outline of the CISG, the Text of the CISG, and is then followed by a note explaining the Text. The format of this document is very easy to use. In order to determine what section of the CISG you need to reference, you start by looking at the outline to pinpoint the article. Then scroll down to the text of the CISG to find the exact text desired. Once you have read the text, read the notes of explanations which are located right beneath the text, and are organized according to article, thereby making it easy to locate the note which will benefit you.

Unfortunately, this layout requires researchers to scroll through up to 47 pages of text.<sup>30</sup> This will occasionally result in a researcher missing the text if they are not familiar with the format of the website, or are in a hurry.<sup>31</sup> Further, while the information gained through the notes and text are helpful; there is no support for the conclusions which are reached, which can result in incomplete research.<sup>32</sup> Finally, an additional drawback to the format of this document is

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<sup>28</sup> United Nations Commission on International Trade Law, <http://www.uncitral.org/> (last visited Dec. 1, 2006). Alternatively, you can simply type in the following hyperlink:

[http://www.uncitral.org/uncitral/en/uncitral\\_texts/sale\\_goods/1980CISG.html](http://www.uncitral.org/uncitral/en/uncitral_texts/sale_goods/1980CISG.html).

<sup>29</sup> See United Nations Commission on International Trade Law, 1980 - United Nations Convention on Contracts for the International Sale of Goods (CISG), *supra* note 5.

<sup>30</sup> See United Nations Commission on International Trade Law, Text - Explanatory note, <http://www.uncitral.org/pdf/english/texts/sales/cisg/CISG.pdf> (last visited Dec. 1, 2006).

<sup>31</sup> See *id.*

<sup>32</sup> See *id.*

that the text of the Convention is not a Blue Book compliant text.<sup>33</sup> However, this section is lacking, a telephone number, fax number, email address, and mailing address are provided so that you may obtain the additional information needed.

## 2. *Status of the Convention*

The Status section of the UNCITRAL website provides the current status of signature, Ratification, Accession, Approval, Acceptance or Succession, and Entry into Force.<sup>34</sup> While the status was up to date as of December 1, 2006, the United Nations Treaty Collection<sup>35</sup> should always be consulted for authoritative status information on the CISG.<sup>36</sup>

## 3. *Travaux préparatoires*

The Travaux préparatoires section is a great resource for a researcher interested in compiling historical information about the creation of the CISG. By following the links provided on that page, you will gain access to Progress Reports, Comments, Proposals and Analysis. However, while this is an impressive compilation of historical documents, there is no search function which will allow you to navigate through the documents easily.

## 4. *Proceedings of the UNCITRAL - VIAC Joint Conference*

By clicking on the link to the Proceedings of the UNCITRAL – VIAC Joint Conference link, you will be taken to a page which contains all of the articles and notes which were published in Journal of Law and Commerce Fall of 2005 issue.<sup>37</sup> This collection of scholarly work is a great source for a researcher who wants to be aware of current issues surrounding the

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<sup>33</sup> THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION R 21.4.5(a)(ii), at 173 (Columbia Law Review Ass'n et al. eds., 18<sup>th</sup> ed. 2005).

<sup>34</sup> United Nations Commission on International Trade Law, Status, [http://www.uncitral.org/uncitral/en/uncitral\\_texts/sale\\_goods/1980CISG\\_status.html](http://www.uncitral.org/uncitral/en/uncitral_texts/sale_goods/1980CISG_status.html) (last visited Dec. 1, 2006).

<sup>35</sup> United Nations Treaty Collection, *supra* note 7. The Multilateral Treaties Deposited with the Secretary-General website is updated daily and provides status information on the CISG and other multilateral treaties.

<sup>36</sup> See United Nations Commission on International Trade Law, Status, *supra* note 34.

<sup>37</sup> See United Nations Commission on International Trade Law, UNCITRAL – VIAC Joint Conference, 15-16 March 2005, Vienna: Celebrating Success: 25 years United Nation Convention on Contracts for the International Sale of Goods (CISG), [http://www.uncitral.org/uncitral/en/uncitral\\_texts/sale\\_goods/1980CISG\\_VIAC.html](http://www.uncitral.org/uncitral/en/uncitral_texts/sale_goods/1980CISG_VIAC.html) (last visited Dec. 3, 2006).

CISG and has time to browse through its content. It is also a great starting point for a researcher who has a specific topic in mind and wants to see if there are any scholarly articles addressing that topic. However, consistent with other problems with the UNCITRAL website, there is no search function to navigate through this collection of work. Therefore, a researcher will be required to read the titles of the articles to try to find what will be helpful to them, or to read the articles which are there.<sup>38</sup>

##### 5. *UNCITRAL Digest of Case Law*

The UNCITRAL Digest of Case Law contains digests of cases on the CISG from a large number of domestic jurisdictions.<sup>39</sup> However, it may be difficult for a researcher unfamiliar with the format of the UNCITRAL website to locate the appropriate abstract. Therefore, this section will outline the steps that need to be taken in order to obtain the most current and on point case law.

The first step a researcher should take in locating relevant case law is to select the Link for UNCITRAL Digest of Case Law on the United Nations Convention on the International Sales of Goods. The Digest is organized by CISG Chapters and Articles.<sup>40</sup> Selecting the relevant Chapter or Article will bring up a “synopsis of the relevant case law, highlighting common views and reporting any divergent approach.”<sup>41</sup> This material is updated by UNCITRAL as case law evolves, old chapters being replaced with new chapters and new case

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<sup>38</sup> An alternative for searching the contents of the Journal of Law and Commerce is to use Lexisnexis.com and Westlaw.com. You can do a Boolean search in Westlaw.com using the JLCOM database, or using Lexisnexis.com under the research tab and then the find a source tab enter Journal of Law and Commerce. Do not use parenthesis because then you will come up with zero hits.

<sup>39</sup> U.N. Comm’n on Int’l Trade Law, *supra* note 9, ¶ 14.

<sup>40</sup> *See id.* ¶ 17.

<sup>41</sup> *See id.*

law. The cases which are referenced in the synopsis are footnoted. The footnoted cases have a CLOUT number,<sup>42</sup> a hyperlink or a citation.

After locating the relevant section in the digest, locate the abstract. If a CLOUT number is provided, follow link for abstracts. The abstracts are organized by CLOUT number. In order to obtain the full text of a case, use one of the methods discussed in section VII below. When a synopsis available only by link doesn't have an English translation, you have three options for obtaining translations. You can hire a translator once the case has been obtained, you can check to see whether the case has been translated on the Pace Law School CISG database,<sup>43</sup> or check to see whether the Journal of Law & Commerce and CISG has published its English translations.<sup>44</sup>

#### **IV. TEXT OF THE TREATY**

While the GUIDE TO PRACTICAL APPLICATIONS OF THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS,<sup>45</sup> and the UNCITRAL website contain a wide variety of information on the CISG, there are other resources that can be utilized to make your CISG research more useful and complete. For instance, while the text of the CISG can be obtained through a number of means; the ideal source of the text will be Blue Book compliant. Because the text of the treaty which is available on the UNCITRAL website is not bluebook compliant, below are a few ways to obtain text in a format which are bluebook compliant.

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<sup>42</sup> CLOUT is the reporting system for case law on UNCITRAL texts. "CLOUT reports are published as United Nations documents A/CN.9/SER.C/ABSTRACTS/1 to A/CN.9/SER.C/ABSTRACTS/42. The forty-two CLOUT reports are also available on UNCITRAL's website at <http://www.uncitral.org/>." See *id.* at FN7.

<sup>43</sup> Pace Law School CISG Database, Our "dragon taming" programme – We invite you to participate, <http://www.cisg.law.pace.edu/cisg/text/schedule.html#sch> (last visited Dec. 6, 2006).

<sup>44</sup> The Journal of Law & Commerce and CISG has been including English translations of CISG cases since their 12<sup>th</sup> issue. Journal of Law & Commerce and CISG, About the Journal of Law & Commerce and CISG, <http://jlc.law.pitt.edu/about.html> (last visited Dec. 1, 2006).

<sup>45</sup> ALBERT H. KRITZER, *supra* note 15.

Rule 21.4.5(a)(ii) of the Bluebook requires that when discussing the CISG, citations need to include a U.S. domestic source, and one source published by an international organization from Bluebook table 4.<sup>46</sup>

The first step in becoming bluebook compliant is obtaining the text of the CISG from a U.S. domestic source. The CISG has been published in the Senate Treaty Documents which is an official U.S. domestic source under the Bluebook.<sup>47</sup> The PDF version of the CISG published in the Senate Treaty Documents can be obtained through HeinOnline<sup>48</sup> either by using a KAV number or by using the search feature. To use the search feature, select the Treaties and Agreements Library, then Search. Search for “United Nations Convention on Contracts for the International Sale of Goods” in Short Titles. Otherwise, you can enter 2420 KAV into the Quick Link section of the Treaties and Agreements Library.<sup>49</sup>

The second step in becoming bluebook compliant is obtaining the text of the CISG from a source published by an international organization. The best Intergovernmental treaty source which publishes the CISG is the United Nations Treaty Series which is can be searched at [www.untreaty.un.org](http://www.untreaty.un.org).<sup>50</sup> In order to locate the CISG in their database, select English, Access to Database, and United Nations Treaty Series. Run a basic search to match the phrase "United Nations Convention on Contracts for the International Sale of Goods." Once the search has been run, you will be able to view the text of the CISG in English and French.

One thing to note is that the [untreaty.un.org](http://untreaty.un.org) website is best accessed with Internet Explorer otherwise you may have problems running the search and with popup blockers on

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<sup>46</sup> THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION, *supra* note 33, R 21.4.5(a)(ii), at 173.

<sup>47</sup> *See id.* R 21.4.5(a)(i); CISG, *supra* note 1.

<sup>48</sup> HeinOnline, <http://heinonline.org/front/front-index> (last visited Dec. 3, 2006).

<sup>49</sup> If you are unaware of the KAV number before going to search on Hein online, doing a search on the Convention is your best bet because that search will bring up the KAV number in addition to bringing up the actual document.

<sup>50</sup> United Nations Treaty Series, <http://untreaty.un.org> (last visited Dec. 3, 2006); CISG, *supra* note 1.

browsers such as Firefox. Also, this is a subscription only database and therefore is not accessible everywhere.

## V. EXPANDING YOUR RESEARCH WITH PRINT SOURCES

Because of the wealth of information available on the CISG, print research should be begun by using your library's Catalog. To locate print sources, useful keyword searches are "United Nations Convention on Contracts for the International Sale of Goods" or "Contracts for the International Sale of Goods." An alternative keyword is "CISG", which is an acronym commonly used in the International Trade Law industry, however this keyword brings up substantially fewer results. Below are a few useful sources which can be easily obtained by the interested researcher.<sup>51</sup>

### A. Yearbooks

A valuable resource in researching the CISG is the UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW YEARBOOK ("UNCITRAL Yearbook").<sup>52</sup> The UNCITRAL Yearbook is "is a compilation of all substantive documents related to the work of the Commission and its Working Groups."<sup>53</sup> The 1968-1970 volumes of the yearbook are especially useful because they contain documents regarding the establishment of the CISG. The subsequent volumes through 2002 are also helpful because new information regarding the CISG is added yearly. The UNICTRAL Yearbooks are available in 363 libraries world wide. However, a researcher unable to obtain a hardcopy of the UNCITRAL Yearbook through a library can also download the 1968-2002 volumes on the UNCITRAL website.<sup>54</sup>

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<sup>51</sup> The UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW YEARBOOK from 1968 through 2002 can be downloaded on the UNCITRAL website. *See infra* p. 12 note 53.

<sup>52</sup> UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW YEARBOOK, Vol. 1-33 *available at* <http://www.uncitral.org/uncitral/en/publications/yearbook.html> (last visited Dec. 5, 2006).

<sup>53</sup> *Id.*

<sup>54</sup> *See id.*

## B. Comprehensive Studies

To gain a better understanding of the CISG and to update the information gained from the print source referenced in section III.A: GUIDE TO PRACTICAL APPLICATIONS OF THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS,<sup>55</sup> a valuable comprehensive guide to the CISG is the COMMENTARY ON THE UN CONVENTION ON THE INTERNATIONAL SALE OF GOODS (CISG).<sup>56</sup> Published in 2005, this text contains the full text of the CISG; an introduction to the CISG; a discussion on each article of the CISG including the history, subject, function, tips on application, Superceded rules, and agreed form requirements. The book, well over 1100 pages, is a difficult book to navigate without the use of the index unless you already know the relevant article and section. However, the index is clearly organized, and easy to use.

## VI. EXPANDING YOUR RESEARCH WITH ELECTRONIC SOURCES

### A. Research Guides

Claire M. Germain's "The United Nations Convention on Contracts for the International Sale of Goods: Guide to Research and Literature"<sup>57</sup> is an extremely useful Research Guide on the CISG. Researchers who are ready to expand their search may wish to read this guide which includes an introduction to the CISG, and a brief description of its history and some research issues. Claire M. Germain also suggests starting places for CISG research and provides tips on how to find documents. Finally, she makes suggestions for where people can obtain more information on the CISG when the researcher decides to develop their research further.<sup>58</sup>

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<sup>55</sup> ALBERT H. KRITZER, *supra* note 15.

<sup>56</sup> COMMENTARY ON THE UN CONVENTION ON THE INTERNATIONAL SALE OF GOODS (CISG) (Peter Schlechtriem & Ingeborg Schwenzer eds., Oxford University Press 2d ed. 2005). Peter Schlechtriem is regarded by some as Europe's leading authority on the CISG. Pace Law School CISG Database, Introduction to the CISG, <http://www.cisg.law.pace.edu/cisg/text/cisgint.html> (last visited Dec. 6, 2006).

<sup>57</sup> Claire M. Germain, *supra* note 13.

<sup>58</sup> *See id.*

## B. Pace Law School CISG Database

The Pace Law School CISG Database (“Pace CISG Database”) is an amazing resource of information for a CISG researcher. However, the quantity of CISG information available on the website can be overwhelming. Therefore, instead discussing the numerous features available on the website, only three portions, which I believe are the most useful will be described under this heading. However, their case law database will be discussed under section VII of this guide.

The researcher new to the CISG should start by glancing at the page entitled “Introductions to the CISG.”<sup>59</sup> This section contains articles which give overviews and analyze the basics of the CISG. These articles have been reproduced and made available to the public; the Introduction to the CISG page provides the links to those articles.

Another useful part of the Pace CISG database is “CISG Annotated Table of Contents”<sup>60</sup> which lists the articles and titles of the CISG. Selecting a link brings you to the text of the article, guides which have been written on the article, legislative history on the article, case law discussing the article, scholarly writings on the article, links related to the article, and important words or phrases from the article.<sup>61</sup> The amount of information available for each article varies depending on the existence of materials which discussing it. This tool is most helpful once you’ve established which article you’d like to expand your research on.

A unique aspect of the Pace CISG Database which is extremely helpful are the Guides for Managers and Counsel. The first guide, “Guide for Managers and Counsel: Drafting CISG Contracts and Documents and Compliance Tips for Traders”<sup>62</sup> discusses and explains how to draft CISG contract and documents. It establishes which article a section will discuss, followed

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<sup>59</sup> Pace Law School CISG Database, Introduction to the CISG, *supra* note 56.

<sup>60</sup> Pace Law School CISG Database, CISG Annotated Table of Contents, <http://www.cisg.law.pace.edu/cisg/text/cisg-toc.html> (last visited Dec. 6, 2006).

<sup>61</sup> Take note of important phrases and words for articles which are relevant for your research. They can be used when running library catalog searches, or when running case law searches in the Pace Case law database.

<sup>62</sup> John P. McMahon, *Guide for Managers and Counsel: Drafting CISG Contracts and Documents and Compliance Tips for Traders*, <http://www.cisg.law.pace.edu/cisg/contracts.html> (last visited Dec. 6, 2006).

by a brief introduction, and then sample language for the practitioner to use in their documents. The second guide “Applying the CISG -Guides for Business Managers and Counsel”<sup>63</sup> common questions regarding practical application of the CISG. In addition to explaining the CISG in plain and useful terms, John P. McMahon also provides links to relevant articles, websites, and cases which relate to the issues addressed.

## VII. CASE LAW

There are currently more than 1,000 cases which have been decided under the CISG available through a variety of sources.<sup>64</sup> Under article 7 of the Convention, all disputes which are not settled by the Convention itself, and must be resolved in court “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.”<sup>65</sup> “Unfortunately, no supranational court has been established to safeguard a uniform interpretation of the Convention.”<sup>66</sup> Therefore, to ensure that you have found these materials, use the sources discussed below to ensure that you use the most relevant and up to date cases available.

### A. UNILEX

#### 1. *UNILEX in Print*

“UNILEX International Case Law & Bibliography on the UN Convention on Contracts for the International Sale of Goods”<sup>67</sup> can be found by going to FirstSearch<sup>68</sup> and searching for “UNILEX international case law and bibliography on the UN Convention on Contracts for the

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<sup>63</sup> John P. McMahon, *Guide for Managers and Counsel: Applying the CISG Guides for Business Managers and Counsel*, <http://www.cisg.law.pace.edu/cisg/guides.html> (last visited Dec. 6, 2006).

<sup>64</sup> U.N. Comm’n on Int’l Trade Law, *supra* note 9, at ¶2.

<sup>65</sup> CISG, *supra* note 1, art. 7(2).

<sup>66</sup> KRUISINGA, *supra* note 15.

<sup>67</sup> UNILEX Int’l Case L. & Bibliography on the UN Convention on Contracts for the Int’l Sale of Goods, (Transnational Juris Publications 1996).

<sup>68</sup> FirstSearch, <http://firstsearch.oclc.org> (last visited Dec. 3, 2006). Firstsearch is another subscription service.

International Sale of Goods” in the WorldCat database. Currently, 69 libraries world wide own the 1995 edition of the book including Brooklyn Law School.

The printed collection contains 5 binders. The first binder contains the text of the CISG followed by the status of the Convention. The first binder also contains cases regarding the CISG listed in three different ways: 1) by date, 2) by country; and 3) by issue. You will be able to search for the appropriate case through one of these methods, and once you’ve located relevant case, note the location for the abstract and full text to the right of the line in brackets. Binders 1 and 2 contain the abstracts organized by these numbers, and binders 3, 4, and 5 contain the full text of the cases organized by these numbers. Locate the abstract or full case by finding this number on bottom right hand corner of the page of the appropriate binder. Because this collection is a leaflet it is continuously being updated. However, as it takes some time to print these updates, you may want to update your research online.

## 2. *UNILEX on the Web*

UNILEX on the web is an “‘intelligent’ database of international case law” on the CISG.<sup>69</sup> The webpage contains the text of the CISG, a list of contracting states, cases, and scholarly writing on the CISG. There are several methods available to search case law on UNILEX. A researcher can search cases by date, by the country of decision, by article number and topic, or by the subject.

When searching by year, first select the relevant year. The cases are then organized by date and court. Select the case that you would like to read, and you will be provided with the date, country it was decided in, its number, Court which heard the dispute, parties to the case, and a short description of the issue and the article number the issue stems from. You have the

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<sup>69</sup> Unilex.com, *supra* note 17; Pace Law School CISG Database, Cases on the CISG, <http://www.cisg.law.pace.edu/cisg/text/caseschedule.html> (last visited Dec. 8, 2006).

option of reading an abstract of the case or the full text of the case by selecting the toggle at the top of the page.

The format when searching by country is similar to searching by date. Select the relevant country from the list, and then the date and the name of the court which heard the dispute will be displayed. In order to determine which issues a case addresses, you must follow the link provided. Then if you decide that this case is relevant, you may read the abstract or the full text of the case by selecting the toggle at the top of the page.

The search by subject feature of UNILEX appears to be an extremely useful search methods on the website at first glance, but is ultimately confusing and results in inefficient research. Within this page are alphabetized subject headings with subcategories beneath the heading. Next to each subcategory are the CISG article numbers which are addressed. When you select the article number, the text of that CISG article opens in a new window; however, an entirely new set of categories opens up under the text. The original category that you selected may or may not appear in this window. In order to access a case, you have to continue to click the provided hyperlinks. You will need to select another issue in this new window, followed by a country and then finally the court whose decision you want to read. Once you have selected this last link, a new window opens which lists the date, country of decision, number, court which heard the dispute, parties to the case, and a short description of the issue and the article number the issue stems from. In order to read the abstract or full case, you will need to select the toggles at the top of the page, and only then will you know whether the case is truly on point.

As a large percentage of the full text cases available on UNILEX are only in the original language of the decision, you will often need to obtain translations of those cases once you've determined they are on point. Therefore use one of the methods discussed in III.B.5 to obtain translations.

## **B. Pace Law School CISG Database**

The Pace CISG Database is the most searchable case law resource discussed in this guide. The website provides numerous methods of searching case law including the ability to search by country,<sup>70</sup> by CISG article,<sup>71</sup> by year,<sup>72</sup> by cases with English translations,<sup>73</sup> and CISG Case Search Form. This last option is the most useful and unique of all of the methods the Pace CISG Database provides to search case law.

Being the most useful and unique of these methods, it is the only method which will be discussed. The CISG Case Search Form “permits you to access cases not only by article number but also by country, court, tribunal, case name, date, goods involved” title, judges, and many other search fields and terms .<sup>74</sup> Further, a researcher has options in how to search the materials which are in the Pace CISG Database. Simple searches can be done combining and assigning different weights to fields and terms. Alternatively, a Boolean or advanced search of the cases can be done. Because a researcher needs to know information such as the jurisdiction they are interested in, or the article or issue of dispute which are relevant, it is important that a researcher have a basic understanding of the CISG before attempting to use this search form. Therefore, I recommend that a researcher use the resources referenced above before trying to locate an on point case using this specific search engine.

## **VIII. CONCLUSION**

This research guide was designed to help researchers, who have not previously been exposed to the CISG, find the most up to date and relevant materials available on the CISG.

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<sup>70</sup> Pace Law School CISG Database, Country Case Schedule, <http://www.cisg.law.pace.edu/cisg/text/casecit.html> (last visited Dec. 6, 2006).

<sup>71</sup> Pace Law School CISG Database, CISG Annotated Table of Contents, *supra* note 60.

<sup>72</sup> Pace Law School CISG Database, Yearbook of CISG Cases, <http://www.cisg.law.pace.edu/cisg/text/YB2006-2000.html> (last visited Dec. 6, 2006).

<sup>73</sup> Pace Law School CISG Database, Our “dragon taming” programme – We invite you to participate, *supra* note 43.

<sup>74</sup> Pace Law School CISG Database, Cases on the CISG, *supra* note 69.

When conducting CISG research, the UNCITRAL website is the most useful starting point available. However, the other materials discussed such as HeinOnline, United Nations Treaty Series, UNILEX, and the Pace Law School CISG Database should be used to enhance and update CISG research. When a researcher has become familiar with the materials which have been discussed in this guide, they may want to consider enhancing their research, and Claire M. Germain's guide "The United Nations Convention on Contracts for the International Sale of Goods: Guide to Research and Literature" is a great place to begin that research.<sup>75</sup>

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<sup>75</sup> Claire M. Germain, *supra* note 13.