



Arbitration and CISG

The importance of the CISG for
consolidating International
Arbitration

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The relationship between arbitration and the CISG:

- The purposes and advantages of the CISG;
- Arbitration, CISG and the “new *lex mercatoria*”;
- Arbitration as a mean of promoting the CISG;
- Conclusion

The Purposes of the CISG

Applicability of the CISG:

(i) International Sale of Goods;

=> Concept of International Sale: parties established in different countries

(ii) States which are parties of the Convention

OR

Rules of private international law leading to the applicability of the domestic law of a State- party;

Ratification of the CISG by Brazilian Government:

- Cases involving parties from different countries -> CISG is the substantive law applicable to the case;
- Predictability of the law applicable -> certainty when initiating arbitral proceedings in Brazil;
- Law is applied by Brazilian arbitrators is the same of law applied by arbitrators from the other State-parties.

Benefits of the CISG

- Greater certainty in trade with Brazil;
- Possibility of instituting an arbitral tribunal composed of member from different origins: the knowledge on the substantial law will be the same
- Uniformity: (i) avoids disputes and (ii) provides greater certainty after a dispute is initiated
- Eliminating cultural obstacles in international trade;
- Reducing transaction costs related to the diversity of legal traditions;
- Effective harmonization: relevant amount in international trade takes place among CISG State-parties.

- Arbitration, CISG and the “new *lex mercatoria*”

- Concept “Lex Mercatoria”;
- UNCITRAL’s efforts towards the harmonization of International trade:
 - ✓ CISG
 - ✓ International Arbitration
 - Neutrality
 - UNCITRAL Model Rule
 - Independence regarding domestic juridical order
- Arbitration x CISG
- CISG x “Lex Mercatoria”

- Arbitration as a mean of promoting the CISG
- Common goals: promoting International trade;
- UNCITRAL – proposed creating a competition on international trade to promote its work → creation of Willem C. Vis Moot;

- ARBITRATION AND THE CISG ARE TOOLS FOR THE HARMONIZATION OF INTERNATIONAL TRADE;
- CISG PERFORMS THE ROLE OF THE SUBSTANCIAL LAW;
- ARBITRATION IS A METHOD FOR SETTLING DISPUTES:
PROCEDURAL LAW CAN BE:
 - ✓ RULES OF ARBITRAL ENTITY
 - ✓ MODEL LAWS
 - ✓ DOMESTIC LAWS,...
- THE TWO PERFORM THEIR ROLE TOGETHER IN ORDER TO MAKE INTERNATIONAL TRADE EASIER

Thank you!



