

## UNCITRAL Topics in Brazil. Vienna. March 27, 2015

Your Excellencies,  
Ladies and Gentlemen,

Good Morning.

It is my pleasure and honor to be at this Conference today, sharing this wonderful opportunity with you. In the interest of time, I would like to bring three points to your consideration. First, I would like to thank my UNCITRAL friends here for the golden opportunity to be a Visiting Scholar with UNCITRAL last spring. This has exerted decisive influence on my PhD research and ensuing thesis. Not only because of the incredible access to bibliography with particular focus on my topic of research, but also because of the invaluable discussions I had occasion to hold with specialized officials with hands-on experience on the CISG and the law of sales at an international level. I am convinced that the conclusions of my research (and I will briefly return to this point in a minute) would have been far less substantial were it not for my period with UNCITRAL. Based on the benefits of that experience, I would like to encourage UNCITRAL to host other Visiting Scholars with expertise in the area of international trade law, especially from the developing world, as time and resources permit in the future.

Secondly, I would like to tell you a short story of Brazil's accession to the CISG. It was not until we were able to have the Brazilian industrial sector understand the importance of the CISG as a common platform of rules for international sales contracts that Brazil was ready to accede to the CISG. The Brazilian industry is very much interested in improving the conditions for the export of manufactures, and it

came to understand that the CISG is an important part of that effort. Also essential was the enthusiasm of Brazilian academia. When both things came together, the pressure exerted by the industrial branch of the economy on the one hand, and the enthusiasm of students and academics on the other, accession came about as a natural development. It then became possible to persuade the Brazilian government about the importance of the CISG as a body of uniform rules for international sales contracts with beneficial consequences for Brazil's insertion into the international market. Accession took place in 2013 and the Convention has been in force for Brazil as of the 1<sup>st</sup> of April, 2014.

Thirdly and finally (and forgive me if this is not necessarily a Brazil-related topic), I would like to give you an account of the results of my doctoral research, which as I said before, was possible partly because of the efforts of both UNCITRAL and the CAM-CCBC, today's co-sponsor. I hope this should work in part as *compte-rendu* of my Visiting Scholar activities with UNCITRAL. My research has reached the conclusion that a new Convention is needed to replace the CISG. I have dubbed the new Convention the “Convention on the International Sale of Goods and Services”, thus the “CISGS”. The reasons for that are quite extensively discussed in my book which should be soon released on the subject. But I intend to give you a very brief account right now. The above conclusion is basically predicated on two facts. First, the fact that goods are becoming more and more entangled with services to the point that it is no longer possible to sever them in many cases. Secondly, that contracts for the sale of goods are becoming entangled with contracts for the sale (or the provision) of services to the point that it is no longer practical (or even possible) to distinguish between the goods part and the services part of those contracts. Both phenomena may scientifically be wrapped up under the epithet of “servitization” of goods. Such circumstances had definitely not been envisaged by UNCITRAL in the years leading up to 1980 (when the CISG was adopted), as it was impossible for anyone to take

account of them at that time. They are essentially a result of technological progress, which has been so overwhelming in the course of the past 35 years. In a nutshell, the idea of “goods or services” has essentially been replaced by the notion of “goods and services”.

Let me remind you at this point that the World Trade Organization (WTO) has already recognized the importance of services for international trade when it adopted the General Agreement on Trade in Services (GATS) in 1994, which is a twin agreement to the General Agreement on Tariffs and Trade (GATT), first adopted in 1947. By embracing a new project which takes account of the emergence of services in today's economy and international trade, UNCITRAL would also acknowledge the same circumstance. I would like to offer you this idea as a limited-scope outcome of the Swiss Proposal which is currently being discussed at UNCITRAL. Embracing such a project would probably give UNCITRAL a fifteen-year long agenda on contract law, and would certainly attract the attention of a great number of scholars from all over the world, both from developed and developing countries. It would function as a showcase for UNCITRAL's work and objectives, weighing up the importance of the law of international trade, which is of course on the rise as is international trade itself in our world.

With this, I would like to finish my brief presentation to Your Excellencies this morning, in the hope that it has somehow been useful to you and all your distinguished guests here present.

Thank you, Ladies and Gentlemen.

Dr. Leandro Tripodi