LRC Research Training for the USD VICAM TEAM

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• What are you going to be looking for?
  • Primary sources (treaties, case law, rules, etc.)
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• Where are you going to find this stuff?
  • The LRC! (in print or online)
  • Copley Library (in print or online)
  • The Circuit
  • Somewhere else! (Interlibrary Loan)
What we will cover

- Catalogs: Sally, Circuit, & Worldcat
- Useful Websites: Pace, UNILEX, ICSID
- Databases: Kluwer, Practical Law Company
- Exercises
SEARCHING THE CATALOGS: SALLY, CIRCUIT & WORLDCAT
Sally: named after Sister Sally Furay, a former USD provost, Sally is USD’s online catalog. It contains records for items contained in the LRC and also in the Copley Library collection.

- Remember that Sally can be used to find not just materials in our print collection, but it also provides direct access to materials in our subscription databases, and it also links to websites!

- You can link to Sally off of the LRC’s webpage, or by going directly to: http://sally.sandiego.edu
Searching the catalogs

Circuit Catalog: Because USD is a member of a library consortium called the Circuit, you can search the catalogs of and borrow materials from any of the member libraries which include SDSU, UCSD and Cal State San Marcos. As you can imagine, this greatly increases the universe of materials that are accessible to you!

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goods

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  LRC Reading Room, K1028.3198 R487 2007

- Has the CISG Advisory Council Come of Age?
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  PDF

- IN DEFENCE OF THE CISG.
  Database: Academic Search Premier
  PDF
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Uniform sales law: the UN-Convention on contracts for the international sale of goods

Author: Peter Schlechtriem
Publisher: Wien: Manz, 1986.
Series: Recht, Wirtschaft, Außenhandel, Bd. 9.
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**Details**

- **Document Type:** Book
- **All Authors / Contributors:** Peter Schlechtriem
Author: Lookofsky, Joseph M

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**Details**

**Edition:** 2nd ed

**Published:** The Hague; New York: Kluwer Law International; Frederick, MD: Sold and distributed in North, Central, and South America by Aspen Publishers, c2004

**Description:** xi, 214 p.; 25 cm

**Note:** Includes bibliographical references (p. 199-206) and index

**Summary:** More than 60 countries, including the United States of America, have ratified the Convention on Contracts for the International Sale of Goods (CISG). Since CISG Contracting States account for more than two-thirds of all world trade, the Convention clearly represents a key aspect of American commercial law. By drawing comparisons with domestic (UCC) sales law, the author explains the CISG in terms familiar to American jurists, just as special emphasis is placed on CISG decisions rendered by U.S. courts and the Article 95 reservation made by the United States. But since the CISG treaty demands an international interpretation, this expanded and fully updated Second Edition continues to draw upon the full range of CISG sources, including the increasingly numerous decisions and awards rendered by courts and arbitrators worldwide. Concrete examples and illustrations are provided throughout. Five appendices offer a wealth of reference material, including the complete text of the Convention and an extensive table of cases and arbitral awards.

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1. The Duty to Cooperate in International Sales: the Scope and Role of Article 80 CISG
   by Thomas Neumann
   eBook: Document
   Language: English

2. Drafting contracts under the CISG
   by Harry M. Flechtner, Ronald A. Brand, Mark S. Walter, Center for International Legal Education, University of Pittsburgh School of Law.
   Book
   Language: English
   Publisher: New York: Oxford University Press, 2009 (i.e. 2008)

   by Ingeborg H. Schwerzer; Lisa Spagnolo; Peter Schlechtriem
   Book: Conference publication
   Language: English

4. Article 79 CISG: a critical analysis
   by Lygeri Androutsou
   Language: English
5. L'exonération de responsabilité dans l'article 79 CISG en comparaison avec le droit allemand, anglais, français et belge
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6. Force Majeure and CISG Article 79: Competing Approaches and some Drafting Advice
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7. Exemption and Hardship: Remarks on the Manner in which the Principles of European Contract Law (Articles 6:111 and 8:108) may be used to interpret or supplement CISG Article 79
by Dionysios Fampouras
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8. Hardship as an impediment to performance in terms of article 79 of the CISG
by Victoria Cecilia King; North-West University (South Africa). Potchefstroom Campus.
Language: English

by Harry Fletcher
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Websites that provide access to materials discussing the CISG
PACE Database

- Created & maintained by the Pace Law Library & the Pace Institute of Int’l Comm. Law

- Case law:
  - organized by CISG article, country, keyword
  - UNCITRAL Case Law Digest

- Annotated CISG:
  - Legislative History
  - Guides & Scholarly Writings (bibliographies)
  - CISG-Advisory Council Opinions

Access: http://www.cisg.law.pace.edu/
UNILEX on CISG & UNIDROIT Principles

- Centre for Comparative and Foreign Law Studies
- Case law by date, country, arbitral award, article, & issue
- Bibliographies by article, topic, author
International Centre for Settlement of Investment Disputes (ICSID)

- Established under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States

- ICSID Convention, Regs, Rules

- Cases

- Bibliographies dealing with the ICSID, the ICSID Convention, & bilateral investment treaties
ICC Rules of Arbitration & Cases

• ICC Rules of Arbitration

• ICC cases
    (abstracts & commentary)
  - UNILEX (1988-2011)
Kluwer Arbitration
Kluwer Arbitration is the most comprehensive database of international commercial arbitration primary and secondary resources. It contains international and national arbitration conventions, rules, legislation, and decisions. It also includes commentary and practice tools, as well as lists of related organizations.

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Arbitrating under the 2012 ICC Rules, Grierson and van Jooft (2012)
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Arbitration International
ASA Bulletin
Asian International Arbitration Journal
International Journal of Arab Arbitration
Journal of International Arbitration*
Revue de l'Arbitrage
Spain Arbitration Review | Revista del Club Español del Arbitraje
Kluwer Arbitration includes arbitral rules, decisions, and awards from most major trade and investment organizations (NAFTA, ICSID, ICC, CAS, Cairo, etc.).
The Practical Law Company is a UK-based legal publishing company which provides practical knowledge for business and transactional lawyers. PLC launched its first US services in December 2008 offering many practical toolkits including a section for International Arbitration.

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16 resources

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Articles

1. Arbitration: Japan
Challenging or resisting enforcement of an award on the grounds of illegality

Having pleaded an illegality defence, a dissatisfied party can challenge or seek to prevent enforcement of an award either by:

- Seeking to have the award set aside by the courts of the seat of the arbitration.
- Challenging the award in court enforcement proceedings brought by the claimant in the jurisdiction where enforcement is sought.

Grounds for challenging an award or resisting enforcement

There are various grounds on which an award can be set aside or enforcement refused, all of which are permissive, rather than mandatory. Article 34 of the Model Law sets out the possible grounds for challenging an award. These are effectively the same as the grounds (albeit in slightly different language) set out in article V of the New York Convention for refusing to recognise or enforce an award. The most relevant for the purposes of a claim of illegality is an argument that confirming, recognising or enforcing the award would be contrary to the public policy of the country in which enforcement is being sought (article 34(2)(b)(ii), Model Law; article V(2)(b), New York Convention). For a discussion, see Practice note, Enforcing arbitration awards in England. Such provisions are often reflected in domestic arbitration legislation (see, for example, section 103(3) of the Arbitration Act 1996).

Reasons for setting aside the award

An award can be set aside if the arbitral tribunal lacks substantive jurisdiction to arbitrate the dispute (article 34(2)(b)(i), Model Law). However, most claims of illegality are likely, in practice, to be considered arbitrable (section 67, Arbitration Act 1996) (see Issues of arbitrability and Practice note, Challenging the award under s67 of the English Arbitration Act 1996: jurisdiction).

An award which is in conflict with public policy is liable to be set aside (article 34(2)(b)(ii), Model Law). In France, the Code of Civil Procedure allows an international arbitral award to be set aside only if the recognition or execution is contrary to “international public policy” (article 1502.5, French Decree Law No 81-500 of 12 May 1981). Most other jurisdictions do not have such a requirement, but allow domestic public policy to be considered. Although different states have their own conceptions of public policy, an award is most likely to be set aside where the conduct is highly immoral or objectionable.

In England and Wales, the Arbitration Act 1996 permits the setting aside of an award for serious irregularity, which includes “the award or the way in which it
International Arbitration

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