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Determining fundamental breach in international sale of goods: Taming the Unruly Horse? (Article)

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Abstract

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The remedy of 'avoidance' under CISG is not available for every breach of contract, except for a fundamental one. Many commentators are of the view that the meaning of "fundamental breach" is vague and uncertain. The present paper analyses the dual elements of 'fundamental breach' on the basis of interpretative tools of the Convention, legislative history and an in-depth survey of judicial decisions from various countries. The paper finds that it is too drastic to say that the meaning of fundamental breach is vague but on the contrary the meaning can be refined through judicial interpretation. The paper concludes that though it will take time for case law to completely cover most situations of fundamental breach, it is clear at this stage that a number of basic principles for the determination of fundamental breach are well settled and established. © Universiti Putra Malaysia Press.

Author keywords

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1 Bianca, M.C., Bonell, M.J.
(1987) *Commentary on The International Sales Law: The 1980 Vienna Sales Convention*, p. 72.
(Eds.) Giuffrè: Milan

2 Bridge, M.
Avoidance for fundamental breach of contract under the un Convention on the International Sale of Goods

(2010) *International and Comparative Law Quarterly*, 59 (4), pp. 911-940. Cited 4 times.
doi: 10.1017/S0020589310000473

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3 Ferrari, F.
Fundamental breach of contract under the UN Sales Convention - 25 years of article 25 Convention on Contracts for International Sale of Goods
(2006) *Journal of Law and Commerce*, 25, pp. 489-508. Cited 3 times.

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(2010) *Commercial Contract Law:
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(2015) *Rutgers Law Review*

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□ 4 Graffi, L.
Divergences in the interpretation of the CISG: The concept of 'fundamental breach'
(2003) *The 1980 Uniform Sales Law: Old Issues Revisited in The Light of Recent Experiences*, pp. 305-311. Cited 2 times.
F. Ferrari (Ed.), Verona Conference 2003: Munchen

□ 5 Honnold, J.O.
(1999) *Uniform Law for International Sales Under The 1980 United Nations Convention*
3rd ed.). The Hague, the Netherlands: Kluwer Law International

□ 6 Huber, A., Mullis, P.
(2007) *The Convention on The Contract for International Sale of Goods*
(. Sellier: Munich

□ 7 Pauly, C.
The concept of fundamental breach as an international principle to create uniformity of commercial law
(2000) *Journal of Law and Commerce*, 19, pp. 221-225. Cited 2 times.

□ 8 Schlechtriem, P., Schwenger, I.
(2010) *Commentary on The UN Convention on The International Sale of Goods (CISG)*
(. (3rd English ed.). Oxford: Oxford University Press

□ 9 Will, M.R.
Article 25
(1987) *Commentary on The International Sales Law: The 1980 Vienna Sales Convention*, p. 209.
M. C. Bianca & M. J. Bonell (Eds.), Giuffre: Milan

□ 10 Zeller, B.
The remedy of fundamental breach and the United Nations Convention on the International Sale of Goods
(CISG) - A principle lacking certainty?
(2007) *Vindobona Journal of International Commercial Law & Arbitration*, 11 (2), pp. 219-236.

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