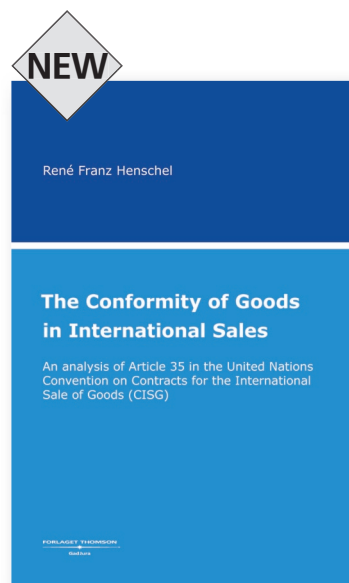


# The Conformity of Goods in International Sales

An analysis of Article 35 in the United Nations Convention on Contracts for the International Sale of Goods (CISG)

by René Franz Henschel



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**The Conformity of Goods in International Sales** gives a systematic analysis of Article 35 in the United Nations Convention on Contracts for the International Sale of Goods (CISG). Based on a detailed analysis of the most important cases and leading academic writing, Article 35 is described as a historical compromise between caveat emptor and caveat venditor and it is shown that the Article is to be supplemented by the general rules of contract law inside and outside the convention, such as the principle of good faith in Article 7 CISG, the rules of interpretation and usage in Article 8 and Article 9 CISG and the UNIDROIT Principles of International Commercial Contracts.

The relation to domestic rules competing with Article 35, for instance the rules on validity and the rules on non-contractual liability, are analysed and so is the relation to selected domestic sales law, e.g. the United States Uniform Commercial Code (UCC), the new German and Chinese Civil Codes and the sales codes of the Scandinavian countries. The remedies available to the buyer are also analysed.

The overall conclusion is that Article 35 is generally interpreted in an autonomous and dynamic way by the various courts, so that it fulfils its objective. The uniform interpretation is contested, however, e.g. by domestic rules on validity, thus inviting a choice of law and forum shopping. If the parties allow for this in their contract the problems may be overcome. It should be appreciated, however, that parts of the contract law as background law and as a competing set of rules will also give rise to problems in the future, thereby highlighting the necessity of contract law harmonisation or a revision of the Convention.

René Franz Henschel, Ph.D., Master of Law (LLM) is Assistant Professor (Law of Obligations) at the Aarhus School of Business and External Assistant Professor (Law of Obligations and Comparative Sales Law) at the University of Aarhus. He is Editor-in-chief of CISG Denmark and Senior Editor of UNILEX. The book is an updated version of his Ph.D. thesis from 2003.

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