Cornell International Law Journal

Volume 22
Issue 1 *Winter 1989*

Article 4

Book Review

BOOK REVIEW

Volume 21, Issue 3 was devoted to a Symposium on the Convention for the International Sale of Goods. The following highlights a new guide to the legislative history of the CISG which is sure to be helpful.

Honnold, Documentary History of the Uniform Law for International Sales (Kluwer 1989)

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The United Nations Convention on Contracts for the International Sale of Goods is today the law of the United States and an expanding number of U.S. trading partners.[1] The Convention contains some concepts similar to established common law or U.C.C. tradition, some similar to established civil law tradition and some entirely new. All should be construed in the context of the Convention as opposed to domestic tradition.

Access to insights to be derived from the legislative history of any code can be a helpful part of the interpretive process. This is particularly true of this code, recognizing that we do not now have any case law on it to guide us. The relevant United Nations documents, however, are scattered over thousands of pages contained in ten volumes, some of which have been out of print. Moreover, the ten volumes are so inadequately indexed for today's needs that "looking for a needle in a haystack" is a mild description of the type of searches that have been

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1. On January 1, 1988, the Convention entered into force for Argentina, China, Egypt, France, Hungary, Italy, Lesotho, Syria, United States, Yugoslavia and Zambia. Other countries that have ratified this new sales code are Austria, Finland, Mexico, Sweden (effective January 1, 1989), Australia (effective April 1, 1989) and Norway (effective August 1, 1989). Many additional ratifications are anticipated.

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necessary once all relevant documents have been located. Honnold's Documentary History of the Uniform Law for International Sales (Kluwer 1989) is a responsive compilation and road map. It contains:

> The official texts of the documents; Introductions which explain their relationships to each other and to the legislative process; References which enable the reader to trace the discussions that led to a particular final provision; and An indexing system which is a vast improvement upon that which accompanies the original material.

All who need to understand the convention should be most grateful for this resource.

In order to best appreciate the background of the Convention and the challenge it presents to practitioners (among others), we should be aware that if all the legal systems of the world were arrayed, certain differences and commonalities would be apparent. One commonality is that two classes of lawyers function under every system: those who aspire to be artists (professors) and those who aspire to be craftsmen (practitioners). For its half-century gestation period, the U.N. Sales Convention has belonged almost entirely to the former. Now others also have their turn. That is fair. And among the fairest of the Prometheans who are sharing in that which was devised is John Honnold. To help our country know better what it was ratifying (really, to help all countries), Honnold brought to us his Uniform Law for International Sales (Kluwer 1982). In the opinion of this reviewer, who has sought to read all that has been written on the subject in preparation for his own book on the Convention, that seminal text provides the most internally consistent review of the Convention as a unified entity, along with a set of footnotes which are sufficiently complete to constitute the syllabus for a comprehensive course on international comparative sales law. His new Documentary History of the Uniform Law for International Sales is an added boon.

It should be noted, however, that the gratitude of some of us to Honnold and his colleagues at the Vienna Convention is not entirely unstinted. When I see the splendid ways I can serve my clients under the Convention, I delight. But as a practitioner accustomed to counselling on outcomes as best I can, I confess I cringe when I also see damages provisions, for example, referred to as experiments in social engineering. These are my words, not John Honnold's. His words are:

> The allocation of costs of unanticipated or improbable developments poses fundamental issues concerning the social and economic functions of sanctions for breach of contract. . . . The Convention's rule . . . is sufficiently flexible to accommodate further wisdom.[2]

There are some I think who might say as did the delegate from Bulgaria in another context:

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2. J. HONNOLD, UNIFORM LAW FOR INTERNATIONAL SALES 411 (1982).

> That solution sacrificed the fundamental considerations of international trade relations . . . certainty and security . . . to less important considerations such as the flexibility of rules and equity in individual cases.[3]

Regardless of one's position on this issue, to the extent the Convention contains elements of social engineering (and it does), it is now up to us to engineer in the soundest and most productive manner all of our contracts that will be governed by the Convention. Like fire, the Convention is a two-edged sword: it can be highly beneficial (a blessing to international traders), but it can also burn traders if they do not understand how to use it properly. The works John Honnold has written help us in our efforts both to take advantage of the benefits the Convention offers and to cover ourselves by suitable contract terms and conditions where provisions of the Convention run counter to our desires.

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3. This statement appears in U.N. Conf. on Contracts for the Int'l Sale of Goods, Vienna 1980, Official Records, A/CONF.97/19, at 284 (1981).