

In October 1992, a French importer, Mr. Caiato, placed two orders with the Italian Company Invernizzi to make deliveries to one of its clients. After receiving the orders, Invernizzi informed Caiato that it was not able to execute the orders unless Caiato obtained the clearance of the Ifitalia company, the manufacturing company to which it had assigned its receivables. On the ground of non-performance of the contract, Caiato refused to pay a number of invoices and terminated business dealings.

The French factoring company, a successive assignee of Ifitalia, brought an action against Caiato before the Commercial Court of Grenoble, which ordered Caiato to pay his disputed debts. Caiato lodged an appeal, invoking a number of debts which he claimed to be owed by Invernizzi.

The Grenoble Court of Appeal applied article 1(1)(a) CISG in order to determine the law applicable, the buyer and the seller being domiciled in different States parties to CISG.

The Court of Appeal found that it was incontestable, given the dealings carried on between the parties for a number of months, that Invernizzi knew that the goods were destined for the French market and that this knowledge obliged it, as provided by article 8(1) CISG, to comply with the marketing regulations in force in France. The Court considered that the failure to mark the composition of the goods on the packaging rendered them non-conforming within the meaning of article 35 CISG. In addition, the Court found that Caiato had observed the “reasonable time- limit” within the meaning of article 39(1) CISG, the buyer’s complaint having been made within the month following the delivery. The Court also ruled that Invernizzi had been supplying Caiato for a long time without showing any concern for his solvency and by virtue of article 9 CISG, found Invernizzi liable for abrupt discontinuance of business relations between parties bound by long-standing practices.