

*Article 38*

[Seller's knowledge of lack of conformity]

The seller is not entitled to rely on the provision of articles 36 and 37 if the lack of conformity relates to facts of which he knew or could not have been unaware and which he did not disclose to the buyer.

PRIOR UNIFORM LAW

ULIS, article 40.

**Commentary**

Article 38 relaxes the notice requirements of articles 36 and 37 where the lack of conformity relates to facts which the seller knew or of which he could not have been unaware and which he did not disclose. The seller has no reasonable basis for requiring the buyer to notify him of these facts.