

Article 30

The seller must deliver the goods, hand over any documents relating to them and transfer the property in the goods, as required by the contract and this Convention.

OVERVIEW: MEANING AND PURPOSE OF THE PROVISION

1. Article 30 identifies and summarizes the main duties that the seller is obliged to fulfil. Together with article 53, the provision has been found to contain an implicit definition of sale.¹ The seller is also bound to perform any additional obligations provided for in the contract, as well as duties mandated by a usage or practice between the parties as provided in article 9. Such additional obligations could include, for example, a contractual duty to deliver exclusively to the buyer.²

OBLIGATION TO DELIVER

2. Article 30 provides that the seller is obliged to deliver the goods. In several instances parties to a contract governed by the Convention have specified the duty to deliver by using a price-delivery term (such as one defined in the Incoterms), which then prevails over the rules of the Convention.³

OBLIGATION TO HAND OVER DOCUMENTS

3. Article 30 obliges the seller to hand over documents relating to the goods, but does not itself impose a duty on the seller to arrange for the issuance of such documents.⁴

OBLIGATION TO TRANSFER PROPERTY

4. Although the Convention “is not concerned with the effect which the contract may have on the property in the goods sold” (article 4 (b)), the seller’s principal obligation under article 30 is to transfer the property in the goods to the buyer. Whether the property in the goods has in fact been transferred to the buyer is not a question governed by the Convention; it must be determined by reference to the law designated by the rules of private international law of the forum. In addition, the effect of a retention of title clause on the property in the goods is not governed by the Convention,⁵ but rather by the law designated by the rules of private international law of the forum. One court has stated, however, that whether a retention of title clause has been validly agreed upon, and whether an alleged retention of title constitutes a breach of contract, must be determined by reference to the rules of the Convention.⁶

OTHER OBLIGATIONS

5. The Convention itself provides for seller obligations not mentioned in article 30. These include the duties described in Chapter V (articles 71-88, on obligations common to the buyer and the seller), and obligations derived from usages or practices between the parties as provided in article 9. Moreover, the contract can always provide for further obligations of the seller—for instance, to install the sold goods.⁷

Notes

¹ See, for example, CLOUT case No. 916 [High Commercial Court, Croatia, 19 December 2006]. Article 30 is often cited merely to state the basis for the seller’s duty to deliver: see, for example, CLOUT case No. 680 [China International Economic and Trade Arbitration Commission, People’s Republic of China, 8 March 1996]; CLOUT case No. 683 [China International Economic and Trade Arbitration Commission, People’s Republic of China, 1 January 1999]; CLOUT case No. 684 [China International Economic and Trade Arbitration Commission, People’s Republic of China, 12 April 1999]; CLOUT case No. 732 [Audiencia Provincial de Palencia, Spain, 26 September 2005]; CLOUT case No. 652 [Tribunale di Padova, Italy, 10 January 2006]; CLOUT case No. 959 [Economic Court of Grodno Region, Belarus, 23 July 2008].

² See, for example, CLOUT case No. 2 [Oberlandesgericht Frankfurt, Germany, 17 September 1991], *Neue Juristische Wochenschrift* 1992, 633.

³ Compare, for example, CLOUT case No. 244 [Cour d’appel, Paris, France, 4 March 1998] (Incoterm EXW used) (see full text of the decision); CLOUT case No. 340 [Oberlandesgericht Oldenburg, Germany, 22 September 1998] (Incoterm DDP used). See also paragraphs 3, 5 and 11 of the Digest for article 31.

⁴ The seller’s obligation to hand over documents relating to the goods is further particularized in article 34. It has been held that, in a documentary sale, the buyer is generally not entitled to require delivery of the documents before payment: CLOUT case No. 864 [China International Economic and Trade Arbitration Commission, People’s Republic of China, 25 June 2007].

⁵ CLOUT case No. 226 [Oberlandesgericht Koblenz, Germany, 16 January 1992]; Landgericht Freiburg, Germany, 22 August 2002, *Internationales Handelsrecht* 2003, 22 (if according to the applicable law property in a stolen car cannot be transferred, the seller has not fulfilled its duty).

⁶ CLOUT case No. 308 [Federal Court of Australia, Australia, 28 April 1995].

⁷ See, for example, CLOUT case No. 940 [Gerechtshof Arnhem, Netherlands, 15 August 2006].