

form other than in writing where any party has his place of business in that Contracting State.

2. As the operation of article 11 is confined to articles 10 and 27 and to Part II of this Convention (i.e. articles 12 to 22) it does not encompass all notices or indications of intention required under the Convention but only those which relate to the formation of the contract, its modification and its abrogation. Other notices may be given by means appropriate in the circumstances.²

3. Since the requirement of writing in relation to the matters mentioned in article 11 is considered to be a question of public policy in some States, the general principle of party autonomy is not applicable to this article. Accordingly, article 11 cannot be varied or derogated from by the parties.

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Article 11

[Effect of declarations relating to form]

Any provision of article 10, article 27 or Part II of this Convention that allows a contract of sale or its modification or abrogation or any offer, acceptance, or other indication of intention to be made in any form other than in writing does not apply where any party has his place of business in a Contracting State which has made a declaration under article (X) of this Convention. The parties may not derogate from or vary the effect of this article.

PRIOR UNIFORM LAW

None.

Commentary

1. Article 11 recognizes that some States consider that it is an important element of public policy that contracts or their modification or abrogation be in writing. Therefore, article 11 enables a Contracting State to make a declaration under article (X)¹ to prevent the application of any provision of article 10, article 27 or Part II of the Convention which allows a contract of sale or its modification or abrogation or any offer, acceptance, or other indication of intention to be made in any

¹ The text of article (X) is reproduced with the other proposed final clauses in document A/CONF.97/6.

² See articles 24 and 25 and the commentary thereto.