

**Article 2****[Exclusions from Convention]**

This Convention does not apply to sales:

- (a) of goods bought for personal, family or household use, unless the seller, at any time before or at the conclusion of the contract, neither knew nor ought to have known that the goods were bought for any such use;
- (b) by auction;
- (c) on execution or otherwise by authority of law;
- (d) of stocks, shares, investment securities, negotiable instruments or money;
- (e) of ships, vessels or aircraft;
- (f) of electricity.

## PRIOR UNIFORM LAW

ULIS, article 5.  
ULF, article 1 (6).  
Prescription Convention, article 4.

## Commentary

1. Article 2 sets out those sales which are excluded from the application of this Convention. The exclusions are of three types: those based on the purpose for which the goods were purchased, those based on the type of transaction and those based on the kinds of goods sold.

*Exclusion of consumer sales, subparagraph (a)*

2. Subparagraph (a) of this article excludes consumer sales from the scope of this Convention. A particular sale is outside the scope of this Convention if the goods are bought for "personal, family or household use." However, if the goods were purchased by an individual for a commercial purpose, the sale would be governed by this Convention. Thus, for example, the following situations are within the Convention: the purchase of a camera by a professional photographer for use in his business; the purchase of soap or other toiletries by a business for the personal use of the employees; the purchase of a single automobile by a dealer for resale.

3. A rationale for excluding consumer sales from the Convention is that in a number of countries such transactions are subject to various types of national laws that are designed to protect consumers. In order to avoid any risk of impairing the effectiveness of such national laws, it was considered advisable that consumer sales should be excluded from this Convention. In addition, most consumer sales are domestic transactions and it was felt that the Convention should not apply to the relatively few cases where consumer sales were international transactions, e.g. because the buyer was a tourist with his habitual residence in another country<sup>1</sup> or that the goods were ordered by mail.

4. If the goods were purchased for personal, family or household use, this Convention does not apply "unless the seller, at any time before or at the conclusion of the contract, neither knew nor ought to have known that the goods were bought for any such use." The seller might have no reason to know that the goods were purchased for such use if the quantity of goods purchased, the address to which they were to be sent or other aspects of the transaction were those not normal in a consumer sale. This information must be available to the seller at least by the time of the conclusion of the contract so that he can know whether his rights and obligations in respect of the sale are those under this Convention or those under the applicable national law.

*Exclusion of sales by auction, subparagraph (b)*

5. Subparagraph (b) of this article excludes sales by auction from the scope of this Convention. Sales by auction are often subject to special rules under the applicable national law and it was considered desirable that they remain subject to those rules even though the successful bidder was from a different State.

*Exclusion of sales on execution or otherwise by authority of law, subparagraph (c)*

6. Subparagraph (c) of this article excludes sales on judicial or administrative execution or otherwise by authority of law, because such sales are normally governed by special rules in the State under whose authority the execution sale is made. Furthermore, such sales do not constitute a significant part of international trade and may, therefore, safely be regarded as purely domestic transactions.

*Exclusion of sales of stocks, shares, investment securities, negotiable instruments or money, subparagraph (d)*

7. This subparagraph excludes sales of stocks, shares, investment securities, negotiable instruments or money. Such transactions present problems that are different from the usual international sale of goods and, in addition, in many countries are subject to special mandatory

rules. Moreover, in some legal systems such commercial paper is not considered to be "goods." Without the exclusion of the sales of such paper, there might have been significant differences in the application of this Convention.

8. This subparagraph does not exclude documentary sales of goods from the scope of this Convention even though, in some legal systems, such sales may be characterized as sales of commercial paper.

*Exclusion of sales of ships, vessels or aircraft, subparagraph (e)*

9. This subparagraph excludes from the scope of the Convention all sales of ships, vessels and aircraft. In some legal systems the sale of ships, vessels and aircraft are sales of "goods" while in other legal systems some sales of ships, vessels and aircraft are assimilated to sales of immovables. Furthermore, in most legal systems at least some ships, vessels and aircraft are subject to special registration requirements. The rules specifying which ones must be registered differ widely. In order not to raise questions of interpretation as to which ships, vessels or aircraft were subject to this Convention, especially in view of the fact that the relevant place of registration, and therefore the law which would govern the registration, might not be known at the time of the sale, the sale of all ships, vessels and aircraft was excluded from the application of this Convention.

*Exclusion of sales of electricity, subparagraph (f)*

10. This subparagraph excludes sales of electricity from the scope of this Convention on the ground that in many legal systems electricity is not considered to be goods and, in any case, international sales of electricity present unique problems that are different from those presented by the usual international sale of goods.

<sup>1</sup> See article 9 (b).