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Celebrating the 40th Anniversary of the CISG: CISG as a Tool for Global Trade

– Theory and Practice



The CISG and Access to Commercial Justice in a Changing World of Trade

THE UN SALES CONVENTION'S ROLE IN
REIMAGINING TRADE AND ECONOMIC GROWTH

The CISG as a Tool for Global Trade
-Theory and Practice

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The New World of Trade

The CISG in a Changing
World of Trade

- E-Commerce
- Regional and Global Value Chains
- Micro-Multinationals
- Local Content Requirements
- Services
- Smart Contracts
- COVID-19

Two kinds of Contracting

Relational

Arm's Length

...and everything
in between?

Written terms of
reference, contract
farming

Formal relational,
long term contracts



Access to Justice and Growth

The CISG in a Changing
World of Trade

The hypothesis on how lack of access to commercial justice inhibits growth goes something like this:

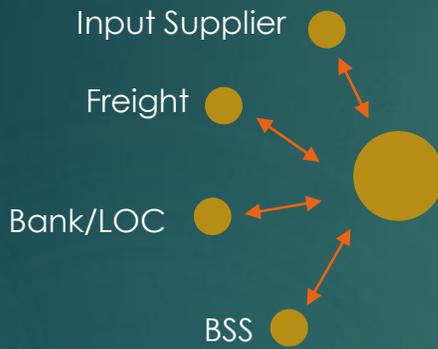
- MSMEs doing business across borders lack access to justice.
- If contract enforcement is unlikely, there is little incentive to enter into sophisticated contracts
- The alternative is often purely relational contracting which has high transaction costs for international transactions
- High transaction costs and the market limitations attendant to reliance only on trust networks results in barriers to entry

The Contracting Ecosystem / Value Chain

4 components or stages

Negotiation

Use of contracts is unlikely if efficient dispute resolution is unavailable



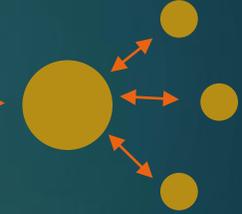
Domestic Contract

International Contract

Behind the border

Beyond the border

Substantially higher transaction costs for relational contracts



Performance



Dispute Resolution

Dispute resolution mechanisms will not thrive if businesses are not using proper contracts

- Mechanisms:
- Negotiation
 - Litigation
 - Mediation
 - Arbitration
 - Med-Arb
 - ODR
 - Smart Contracts

- CISG
- New York Convention
- Singapore Convention
- BITs
- Domestic Law
- Domestic Policy
- Capacity and Implementation

Enforcement



Access to Justice and Growth

The CISG in a Changing
World of Trade

Better access to cross-border commercial justice will incentivize better understanding and use of contracts which should, in turn, result in lower transaction costs and lower barriers to entry for micro, small and medium businesses wishing to engage in regional and global value chains.

Access to Justice and Growth

The CISG in a Changing
World of Trade

- Harmonization
- Litigation, arbitration and mediation
- Online Dispute Resolution
- “Smart” contracting (e.g., blockchain)
- Capacity building and related regulatory reform

Contracting Ecosystem Theory of Change



“We need to send entrepreneurs out of the trenches armed with more than baguettes”

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