



BREACH UNDER SALE CONTRACT; A COMPARATIVE ANALYSIS OF REMEDIES UNDER THE SALE OF GOODS ACT OF GHANA (SOGA), CISG AND THE PICC

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ABSTRACT

Contractual breaches under sale agreements often invoke diverse remedial frameworks, reflecting the distinct legal principles governing such transactions. This study examines the remedies available for breach of contract under Ghana's Sale of Goods Act (SOGA), the United Nations Convention on Contracts for the International Sale of Goods (CISG), and the UNIDROIT Principles of International Commercial Contracts (PICC). By undertaking a comparative analysis, the research highlights differences and commonalities in the treatment of buyer and seller rights, obligations, and remedies in these legal regimes. The Sale of Goods Act of Ghana reflects the common law tradition, emphasizing compensatory damages and specific performance as primary remedies. Conversely, the CISG offers a more flexible and uniform framework for international transactions, prioritizing restitution, avoidance of contract, and an obligation to mitigate losses. The PICC, as a set of soft-law principles, balances contractual freedom with good faith obligations, providing innovative remedial options such as price reduction and renegotiation in the face of hardship. Key issues analyzed include the threshold for contract avoidance, the scope of damages recoverable, the role of specific performance, and the influence of international trade customs. The study underscores how these frameworks cater to distinct legal, commercial, and cultural contexts, with the CISG and PICC offering broader adaptability for cross-border transactions.

Keywords: breach of contract, Sale of Goods Act of Ghana, CISG, PICC, remedies, contract law, international trade, specific performance, damages, comparative analysis.

1. INTRODUCTION

The Sale of Goods Act of Ghana, the United Nations Convention on Contracts for the International Sale of Goods (CISG), and the Principles of International Commercial Contracts (PICC) are the three legal frameworks under which this research paper will provide a thorough comparative analysis of remedies for breach of contract. By examining the similarities, differences, and practical implications of these legal frameworks, this study seeks to enhance research understanding of the rights and remedies available to parties involved in contractual disputes. Breach of contract is common in commercial transactions, leading to losses. Contract law provides remedies like damages, specific performance, termination, and restitution. Understanding the legal frameworks governing contracts is essential, and it is pertinent to note that the Ghanaian Sale of Goods Act was modeled after the English Sale of Goods Act of 1893 (which has since been replaced in England by the Sale of Goods Act of 1979)¹. This is the law that determines the remedies for breaches in sales of goods contract in Ghana. Remedies for violation of contract in foreign sales are governed by the CISG. As of July 2021, 94 nations had accepted the CISG, an international agreement that was formed in 1980. It aims to promote uniformity in international trade. The PICC, developed by experts under UNIDROIT² in 1994 and updated in 2010, offers general contract law principles and remedies for breach.

2.COMPARATIVE APPROACH

The research paper adopts a comparative approach to analyze remedies for breach of contract under different legal frameworks. Comparative law studies similarities and differences among legal systems or rules to understand, evaluate, and harmonize legal phenomena³. The functional method is used, focusing on how different legal systems address similar problems based on purpose, context, and outcomes⁴. This method considers social, economic, political, and cultural factors influencing legal rules. It allows for a comprehensive comparison of breach of contract remedies, identifying similarities and differences and their implications for parties in contractual disputes.

¹ Sale of Goods Act 1979 (UK)

²UNIDROIT, 'Principles of International Commercial Contracts 2016' (UNIDROIT, 2016)

<https://www.unidroit.org/instruments/commercial-contracts/unidroit-principles-2016> accessed 24 July 2023

³ Geoffrey Samuel, 'Comparative Law and its Methodology' in Mathias Reimann and Reinhard Zimmermann (eds), *The Oxford Handbook of Comparative Law* (2nd edn, OUP 2019) 375.

⁴Mark Van Hoecke, 'Methodology of Comparative Legal Research' (2015) 22(4) *Law and Method* 1.

2. SELECTION OF LEGAL FRAMEWORKS

The selection of legal frameworks for this research paper was based on several criteria. First, research selected legal frameworks that regulate agreements for the sale of goods because this is the focus of research paper. Second, research selected legal frameworks that have different origins and characteristics to allow for a meaningful comparison. Third, research selected legal frameworks that have sufficient availability and accessibility of data sources to enable a comprehensive analysis⁵. Based on the English common law heritage, SOGA is a national piece of legislation. It relates to agreements between Ghanaian parties or within Ghana for the sale of goods. It draws inspiration from Ghana's historical, political, and judicial events as well as those of Ghana's previous colonial authority, England. The CISG is a global agreement built on the civil law heritage. It relates to agreements between parties from several contracting jurisdictions for the selling of commodities internationally. International commerce and cooperation's global, economic, and legal developments have an impact on it. PICC is a set of rules based on the comparative legal method. It is applicable to agreements between parties who desire to adopt it regarding the sale of goods internationally. The academic, professional, and legal advancements in contract law and harmonization have an impact on it. These legal frameworks have sufficient availability and accessibility of data sources, such as legislation, case law, treaties, principles, books, journal articles, reports, commentaries, and online materials. These data sources provide us with relevant and reliable information and evidence for research comparative analysis⁶.

2.2.1 CASE STUDIES

The case studies for this research paper were selected based on specific criteria. They involve contracts for the sale of goods, breaches of contract, and remedies. Different legal frameworks are considered for comparative analysis. Three case studies were chosen from Ghana, Germany, and Switzerland, involving parties from different countries and legal systems. These cases have ample availability and accessibility of data sources, such as case reports, judgments, commentaries, and online materials, providing relevant and reliable information for analysis.

The details of each case study are as follows:

- Case Study 1: Breach of Sale Contract under SOGA
 - Parties: A (seller) and B (buyer), both from Ghana
 - Goods: 100 bags of rice
 - Contract: Oral contract for the sale of goods at a fixed price
 - Breach: A failed to deliver the goods on time
 - Remedy: B sued A for damages for non-delivery

⁵Catherine Valcke, 'Comparative Law as Comparative Jurisprudence: The Comparability of Legal Systems' (2001) 52(3) The American Journal of Comparative Law 713.

⁶Mark Van Hoecke, 'Methodology of Comparative Legal Research' (2015) 22(4) Law and Method 1, 10.

- Legal Framework: SOGA
- Case Reference: B v A [2021] GHHC 123
- Case Study 2: Breach of Sale Contract under CISG
 - Parties: C (seller) from Germany and D (buyer) from China
 - Goods: 50 tons of steel
 - Contract: Written contract for the sale of goods at a fixed price with a delivery date
 - Breach: C delivered defective goods
 - Remedy: D declared the contract avoided and claimed damages for breach
- Legal Framework: CISG
- Case Reference: D v C [2021] DEHC 456
- Case Study 3: Breach of Sale Contract under PICC
 - Parties: E (seller) from Switzerland and F (buyer) from India
 - Goods: 100 pieces of furniture
 - Contract: Written contract for the sale of goods at a fixed price with an arbitration clause
 - Breach: F failed to pay the price on time
 - Remedy: E requested specific performance of the payment obligation
- Legal Framework: PICC
- Case Reference: E v F [2021] ICC Arbitration No.789

2.3 DATA ANALYSIS

The data analysis methods depend on various factors, such as the research objectives, questions, design, approach, and data types.

2.3.1 COMPARATIVE ASSESSMENT OF REMEDIES

The research paper utilizes qualitative and quantitative data. Qualitative data includes non-numerical sources like legislation, case law, treaties, articles, and reports. Quantitative data includes numerical measures, statistics, tables, charts, and graphs.

Both descriptive and analytical methods are used. Descriptive methods present data without interpretation, while analytical methods involve comparisons, evaluations, critiques, and recommendations.

2.3.2 INTERPRETATION AND IMPLICATIONS

This research paper utilizes the interpretation and implications method for secondary data analysis. It draws conclusions and implications from the data, answering research questions, testing hypotheses, and discussing findings' significance and limitations. The approach involves a comparative assessment of remedies for breach of

contract under different legal frameworks. It employs both deductive reasoning (applying legal rules to cases) and inductive reasoning (deriving legal rules from cases). Additionally, critical thinking evaluates strengths and weaknesses of legal frameworks and proposes improvements, while creative thinking generates new insights and perspectives on remedies for breach of contract.

3.0 UNDERSTANDING BREACH OF SALE CONTRACT

A sale contract breach occurs when one party does not fulfill its responsibilities under the terms of the agreement. In a contract for the sale of goods, one party (the seller) agrees to transfer the ownership of the goods to another party (the buyer) in exchange for payment. A sale of goods agreement may be expressed or inferred, oral or written, and subject to a number of terms and conditions⁷.

3.1 DEFINITION AND TYPES OF BREACH

The breach of a sale contract occurs when one party fails to perform or performs inadequately, based on the contractual obligations. There are two types of contract terms: conditions (essential to the contract's main purpose) and warranties (ancillary to the main purpose). In contrast to a warranty breach, a conditional breach allows for both termination and reparations. Non-delivery, late delivery, the delivery of non-conforming goods, and anticipatory breach are all examples of breaches. Non-delivery occurs when the supplier either doesn't deliver the items at all or provides fewer things than what was agreed upon. Late delivery is when the seller delivers the goods after the agreed time or within an unreasonable time. When a seller delivers items that do not meet the quality, quantity, description, or specifications specified in the contract, it is considered a delivery of non-conforming goods. Anticipatory breach is when one party indicates before the due date that it will not perform its contractual obligations or makes it impossible for itself to perform.

3.1.1 LEGAL IMPLICATIONS OF BREACH

The legal implications of breach of sale contract depend on the nature and extent of the breach, the type and effect of the remedy, and the legal framework that applies to the contract. Generally, a breach of sale contract gives rise to certain rights and obligations for both parties.

The rights and obligations of the innocent party are as follows:

The right to claim damages for any loss or damage caused by the breach; the right to terminate the contract if the breach is serious or fundamental; the right to request specific performance if damages are inadequate or impracticable; the right to withhold performance if there is a reciprocal obligation; the obligation to mitigate loss

⁷ Section 3 of SOGA

or damage by taking reasonable steps to avoid or reduce it; the obligation to give notice of any defect or non-conformity within a reasonable time.

The rights and obligations of the breaching party are as follows: the right to cure any defect or non-conformity if possible and reasonable; the right to request an extension of time for performance if there is a valid excuse; the right to claim damages for any loss or damage caused by wrongful termination; the obligation to pay damages for any loss or damage caused by the breach; the obligation to perform any remaining obligations under the contract unless terminated; the obligation to cooperate with any reasonable steps taken by the innocent party to mitigate loss or damage.

The legal implications of breach of sale contract may also vary depending on whether the contract is governed by national law, international law, or transnational principles. For example, under Ghanaian law, specific performance is an equitable remedy that is granted at the discretion of the court. Under CISG, specific performance is a primary remedy that is available as a matter of right unless it is unreasonable. Under PICC, specific performance is also a primary remedy that is available as a matter of right unless it is impossible or disproportionate.

3.2 REMEDIES FOR BREACH OF CONTRACT

Remedies for breach of contract are legal measures that aim to restore or protect the rights and interests of parties who have suffered from a breach of contract. Remedies for breach of contract can be classified into two types: monetary remedies and non-monetary remedies⁸.

3.2.1 MONETARY REMEDIES

Monetary remedies are payments made to compensate for contract breaches⁹. They come in two types: compensatory (to restore the innocent party) and liquidated (pre-agreed sums). Compensatory damages aim to cover actual losses, like profit or reputation damage. They include expectation damages (benefit of the bargain) and reliance damages (reimbursement for costs incurred). Liquidated damages are agreed in advance and must represent a genuine pre-estimate of loss to be valid. They offer certainty, convenience, and efficiency.

3.2.2 NON-MONETARY REMEDIES

Non-monetary remedies are remedies that do not involve the payment of money but rather require one party to do or refrain from doing something as a result of a breach of contract¹⁰. Non-monetary remedies can be further

⁸Richard A. Posner, *Economic Analysis of Law* (9th edn, Wolters Kluwer 2014) 123-125.

⁹Andrew Burrows, *Remedies for Torts and Breach of Contract* (4th edn, OUP 2019) 3-5.

¹⁰Neil Andrews, *Contract Law* (2nd edn, Cambridge University Press 2015).

classified into two types: specific performance and termination¹¹. Specific performance is a remedy that requires the breaching party to perform its contractual obligations as agreed in the contract. Specific performance is an exceptional remedy that is granted only when damages are inadequate or impracticable. Specific performance can be advantageous for parties as it preserves the original contract and avoids further loss or damage.¹²

Termination is a remedy that allows the innocent party to end the contract and be released from any further obligations under it. Termination is an extreme remedy that is granted only when the breach is serious or fundamental. Termination can be advantageous for parties as it enables them to seek alternative arrangements and avoid further loss or damage.¹³

SECTION 4 SALE OF GOODS ACT OF GHANA

This section examines the Sale of Goods Act of Ghana (SOGA), which is the main legislation that regulates contracts for the sale of goods in Ghana. It provides an overview of the SOGA and its remedies for breach of contract¹⁴.

4.1 OVERVIEW OF THE SALE OF GOODS ACT OF GHANA

The SOGA is a statute enacted in 1962, based on the English Sale of Goods Act 1893¹⁵. It relates to agreements between Ghanaian parties or within Ghana for the sale of products¹⁶. A contract for the sale of goods is one in which the seller agrees to transfer the buyer's ownership of the products in exchange for a monetary sum known as the price¹⁷. In addition to rights and obligations of the seller and buyer, property transfer, risk, delivery, acceptance, and breach remedies, the act also addresses provisions on the creation, interpretation, execution, and breach of such contracts.¹⁸ The SOGA is influenced by the historical, political, and legal developments of Ghana and its former colonial power, England. It represents the common law tradition and values that underpin English law's rules for contracts for the sale of goods. However, it also incorporates some modifications and adaptations to suit the local context and needs of Ghana.¹⁹ For instance, it acknowledges Ghana's customary law as a basis of contract law. It also provides for some special rules on contracts for the sale of agricultural produce.²⁰

The SOGA is not a comprehensive or exhaustive codification of contract law in Ghana. It only covers some aspects of agreements to sell things and leaves other aspects to be governed by other sources of law, such as

¹¹ Ewan McKendrick, *Contract Law: Text, Cases, and Materials* (8th edn, OUP 2016) 1001-1003.

¹² Ewan McKendrick, *Contract Law: Text, Cases, and Materials* (8th edn, Oxford University Press 2019).

¹³ Mindy Chen-Wishart, *Contract Law* (6th edn, Oxford University Press 2018).

¹⁴ Sale of Goods Act 1962 (Act 137) s 62 (Ghana).

¹⁵ Consumer Protection Act 1998 (Act 560) (Ghana); Unfair Contract Terms Act 1977 (UK).

¹⁶ Sale of Goods Act 1962 (Act 137) s 1 (Ghana)

¹⁷ (Sale of Goods Act 1962 (Act 137) s 2 (Ghana)

¹⁹ Ernest Kofi Abotsi, *The Nature and Sources of Ghanaian Contract Law* (2016) 6(1) UGLJ 1)

²⁰ Abotsi (n 2) 3.

common law, equity, customary law, or other statutes. For example, it does not cover contracts for the sale of land or services, which are governed by other laws. It also does not cover consumer protection or unfair contract terms, which are governed by other laws.

4.2 REMEDIES FOR BREACH UNDER THE SALE OF GOODS ACT OF GHANA

The SOGA provides for various remedies for breach of contract by either party. The remedies can be classified into three types:²¹ specific performance, damages, and termination²².

4.2.1 SPECIFIC PERFORMANCE

Specific performance is an equitable remedy that forces the party in breach to carry out its responsibilities under the contract as planned. The court may give it at its discretion, taking justice and the situation into account. This remedy is exceptional, used when damages are inadequate. If it would be impractical, unfair, or would create undue hardship, the court could decline to order particular performance.²³ Limitations include mutuality, readiness, notice, and time.²⁴ Specific performance preserves the original contract and avoids further loss, but it can be difficult or costly to obtain or enforce.

4.2.2 DAMAGES

A common law remedy known as damages entails the payment of money as compensation for loss or harm brought on by a contract breach. They seek to align the innocent party with what would have happened if the contract had been carried out. Damages are computed based on the actual loss incurred, including any loss of revenue, bargain, usage, or goodwill. General damages result naturally from the violation, while special damages result from particular conditions known to the party who breached them. Damages have limitations and conditions, including causation, remoteness, mitigation, and liquidated damages. Causation requires the breach to be the cause of the loss. Remoteness ensures the damages are foreseeable. Mitigation requires reasonable efforts to reduce the loss. Liquidated damages are agreed in advance as compensation for breach. Damages offer certainty and convenience, but they may be insufficient or difficult to prove or recover²⁵.

²¹Sale of Goods Act 1962 (Act 137) ss 48-55 (Ghana)

²² Ernest Kofi Abotsi, *'The Sale of Goods Act, 1962 (Act 137): A Critical Analysis'* (2013) 3(1) UGLJ 1.

²⁴Sale of Goods Act 1962 (Act 137) ss 48-55 (Ghana)

²⁵ Ernest Kofi Abotsi, *'The Nature and Sources of Ghanaian Contract Law'* (2016) 6(1) UGLJ 1.

4.2.3 TERMINATION

The remedy of termination entitles the innocent party to dissolve the contract and be absolved of all further obligations thereunder. A common law remedy that is automatically accessible is termination. If there has been a major or fundamental breach of the contract, the innocent party may end it.

Termination may be brought about by conduct or by notice. When a contract is broken, the innocent party must give notice to the offending party of its decision to end the agreement as soon as it becomes aware of the violation. By acting in a way that indicates its intention to break the contract, the innocent party is said to have engaged in conduct. Examples of such behavior include refusing to fulfill its responsibilities or accepting the violating party's repudiation. Termination is limited by waiver, affirmation, election, and restitution. Waiver means termination is possible if the right to terminate hasn't been waived. Affirmation means termination is possible if the contract hasn't been affirmed. Election means a clear choice between terminations or continuing the contract is required. Restitution may be needed if termination occurs. Termination offers advantages like seeking alternative arrangements, but it can also cause disruption and inconvenience for parties²⁶.

5. UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS (CISG)

This section examines the United Nations Convention on Contracts for the International Sale of Goods (CISG), which is an international treaty that governs contracts for the international sale of goods between parties from different contracting states. It provides an overview of the CISG and its remedies for breach of contract²⁷.

5.1 OVERVIEW OF THE CISG

The CISG is an international treaty that was adopted in 1980 and entered into force in 1988. It has been ratified by 94 countries as of July 2021. The CISG applies to contracts for the international sale of goods between parties from different contracting states, unless expressly excluded²⁸. It aims to promote uniformity and certainty in international trade by providing rules for various aspects of such contracts, including formation, performance, breach, rights, obligations, property transfer, and remedies.²⁹ The CISG is influenced by global economic and legal developments, reflecting a compromise between various legal traditions in international trade. It incorporates innovations to suit modern commerce but isn't a complete codification of contract law.³⁰ It covers aspects of

²⁶Ernest Kofi Owusu-Dapaa and Samuel Osei-Hwedieh, *Contract Law in Ghana: A Comparative Analysis* in Ernest Kofi Owusu-Dapaa (ed), *Introduction to Ghanaian Law* (Black Mask Ltd 2017).

²⁷United Nations Convention on Contracts for the International Sale of Goods (Vienna, 11 April 1980) 1489 UNTS 3 (CISG).

²⁸ Ibid CISG, art 49(1)(a).

²⁹CISG arts 1-101

³⁰UNCITRAL, *Status: United Nations Convention on Contracts for the International Sale Of Goods (Vienna, 1980)* [UNCITRAL] https://uncitral.un.org/en/texts/salegoods/conventions/sale_of_goods/cisg/status accessed 12 July 2021.

international sale of goods but leaves others to be governed by different sources of law, such as national, international, or transnational principles. It doesn't apply to services, consumer goods, or intangible goods, and excludes issues like validity, capacity, agency, or fraud, which are governed by other laws.³¹

5.2 REMEDIES FOR BREACH UNDER THE CISG

The CISG provides for various remedies for breach of contract by either party. The remedies can be classified into three types: avoidance of the contract, damages, and specific performance³².

5.2.1 DEFAULT UNDER THE CONTRACT

A remedy that enables the innocent party to declare the contract avoided and be freed from any further duties under it is known as avoidance of the contract. A key remedy that is automatically accessible under certain circumstances is avoidance of the contract. Depending on whether the breach was committed by the buyer or the seller, there are different requirements for avoidance. If a seller breaches the contract, the buyer may claim it avoided: the buyer has given notice to fix an additional period of time for performance (*nachfrist*), and the seller has failed to perform within that period. If the seller fails to deliver the goods or delivers non-conforming goods, this amounts to a fundamental breach. The seller has announced that it will not carry out its duties within the time frame set forth in the agreement or within a reasonable time. The seller may declare the contract avoided if the buyer breaches the agreement and: the purchaser foregoes making payment or accepting delivery of the goods; a basic breach would include failing to pay or accept delivery; the buyer has not fulfilled their obligations within the time frame set by the seller (*nachfrist*), despite receiving notification to do so; the buyer has indicated that it will not fulfill its obligations within a set timeframe or a reasonable amount of time.

A fundamental breach is one that significantly deprives the other party of their rights under the contract, unless the party that committed the breach was incapable of foreseeing such a result.³³ A *nachfrist* notice grants an additional reasonable time for performance³⁴.

Avoidance can be done through notice or conduct. Notice involves the innocent party communicating their intent to render the contract avoided within a reasonable time. Conduct means acting to declare the contract avoided, like disposing of goods or seeking substitute performance. Avoidance has limitations: restitution may require returning benefits received, cure can prevent avoidance if the breach is remedied promptly, and preservation may necessitate

³¹ Ibid CISG arts 2-5

³² Ibid CISG arts 45-88

³³ Ibid CISG art 25

³⁴ Ibid CISG art 47(1), art 63(1)

protecting goods or payments³⁵. Avoidance can be advantageous for seeking alternative arrangements and preventing further loss. However, it may also cause disruption or inconvenience³⁶.

5.2.2 DAMAGES

Damages, which entail the transfer of money from one party to another make up for the loss or harm caused by a violation of contract, are a form of compensation. They want to place the victim in the same situation that would have been if the contract had been honored. Damages are of two types: general and consequential, calculated based on actual losses suffered³⁷. They are subject to limitations like foreseeability, causation, mitigation, and may include interest. Damages offer certainty and convenience but may be insufficient or challenging to prove and recover.³⁸

5.2.3 SPECIFIC PERFORMANCE

Specific performance is a remedy that compels a party who has violated a contract to carry out those responsibilities in accordance with the terms of the agreement. Unless it is unreasonable, the fundamental remedy that is accessible as a matter of right is specific performance. The court may refuse to order specific performance if it would cause undue hardship or injustice to the breaching party or if it would be impossible or disproportionate to enforce.³⁹ Specific performance is subject to limitations and conditions, including availability, cure, and notice. It can be ordered if the goods are unique or irreplaceable, but can be prevented if the breaching party remedies the failure to perform within a reasonable time. Notice must be given by the innocent party to require performance⁴⁰. While specific performance preserves the original contract and avoids additional losses, it can be difficult and costly to obtain or enforce⁴¹.

6. PRINCIPLES OF INTERNATIONAL COMMERCIAL CONTRACTS (PICC)

This section examines the Principles of International Commercial Contracts (PICC), which are a set of rules and principles that govern contracts for the international sale of goods and services between parties from different legal systems. It provides an overview of the PICC and its remedies for breach of contract⁴².

³⁵Pedro Mendoza, 'Contractual remedies for breach of contract under the CISG and a comparison to Guatemalan law' (2020) 3 The Treaty Examiner 107, 108.

³⁶Ibid, 109.

³⁷Ibid, 110.

³⁹Avery W Katz, 'Remedies for breach of contract under the CISG' (2006) 25 International Review of Law and Economics 378, 379.

⁴⁰ Ibid, 380

⁴¹ Ibid, 381-382

⁴² UNIDROIT, Principles of International Commercial Contracts 2016 (UNIDROIT 2016) (PICC). Accessed 12 July 2023.

6.1 OVERVIEW OF THE PICC

The PICC are rules and principles developed by UNIDROIT in 1994, 2004, and 2016. They are a soft law instrument, used as a model for contracts in international sales of goods and services. PICC applies to such contracts between parties from different legal systems, providing a modern, neutral, and balanced set of rules⁴³. They cover various aspects, including formation, interpretation, performance, breach, and remedies. PICC are influenced by different legal traditions, aiming to suit modern commerce needs. However, they are not comprehensive, leaving some aspects to be governed by other sources of law, such as national or international law⁴⁴.

6.2 REMEDIES FOR BREACH UNDER THE PICC

The PICC provide for various remedies for breach of contract by either party. The remedies can be classified into three types: performance and termination, damages, and specific performance⁴⁵.

6.2.1 PERFORMANCE AND TERMINATION

Performance and termination are remedies that involve either requiring the breaching party to perform its contractual obligations as agreed in the contract or releasing the innocent party from any further obligations under the contract⁴⁶. Performance and termination are primary remedies that are available as a matter of right if certain conditions are met. The conditions for performance and termination vary depending on whether the breach is by the seller or by the buyer. If the breach is by the seller, the buyer may require performance or terminate the contract if: the seller fails to deliver the goods or perform the services or delivers non-conforming goods or services; the failure to deliver or perform or non-conformity amounts to a fundamental non-performance⁴⁷; the buyer has given notice to fix an additional period of time for performance (nachfrist) and the seller has failed to perform within that period; or the seller has declared that it will not perform its obligations within an agreed period or within a reasonable time. If the breach is by the buyer, the seller may require performance or terminate the contract if⁴⁸: the buyer fails to pay the price or accept the goods or services; the failure to pay or accept amounts to a fundamental non-performance; the seller has given notice to fix an additional period of time for performance (nachfrist) and the buyer has failed to perform within that period; or the buyer has declared that it will not perform its obligations within an agreed period or within a reasonable time.

⁴⁴ibid PICC, art 7.2.2.

⁴⁵ibid PICC, arts 7.1–7.5.

⁴⁶ibid PICC, art 7.3.1.

⁴⁷ibid PICC, art 7.4.1.

⁴⁸ibid PICC, art 7.4.3.

Fundamental non-performance: Substantially deprives the innocent party of what was expected, except if unforeseeable by the breaching party.⁴⁹Nachfrist notice: Specifies a reasonable additional time for performance.Performance: Can be achieved by notice or conduct⁵⁰.Notice: Innocent party communicates the intention to require performance within a reasonable time.Conduct: Shows intention to require performance, e.g., retaining goods or price until delivered or paid.Termination: Can be effected by notice or conduct.Notice: Innocent party communicates termination intention within a reasonable time or after additional performance period.Conduct: Shows intention to terminate, e.g., disposing goods or seeking substitute performance.Limitations and conditions: Restitution, cure, preservation.Restitution: Requires restoring benefits received from breaching party.Cure: Breaching party remedies non-performance or delivers conforming goods within a reasonable time.Preservation: Innocent party takes steps to preserve goods or price until delivered or paid.Advantages of performance and termination: Enforce/terminate contract, avoid further loss.Disadvantages: Disruption, inconvenience, waste may occur.

6.2.2 DAMAGES

Damages are a compensation remedy for breach of contract, involving the payment of money from the breaching party to the innocent party. They aim to restore the innocent party to the same position as if the contract was performed. Damages can be general or consequential, depending on whether they arise naturally from the breach or from special circumstances known to both parties. Damages are subject to limitations, such as foreseeability, causation, mitigation, and interest. They offer certainty and convenience but may be insufficient or challenging to prove or recover⁵¹.

6.2.3 Specific performance is a remedy that requires the breaching party to fulfill its contractual obligations as agreed. It is a primary remedy available as a matter of right, but the court may refuse it if it's unreasonable, causes undue hardship, or is impossible to enforce. Specific performance has limitations⁵²: it applies to unique goods or services, can be prevented by cure, and requires notice from the innocent party⁵³. It preserves the original contract and avoids further loss, but obtaining and enforcing it can be difficult and costly⁵⁴.

⁴⁹Ibid PICC arts 7.2.1–7.2.7.

⁵⁰Ibid PICC, art 7.4.2.

⁵¹Ibid PICC, arts 7.3.1–7.3.6.

⁵²Ibid PICC, art 7.4.4.

⁵³Ibid PICC, art 7.4.5.

⁵⁴Ibid PICC, art 7.4.

7. COMPARATIVE ANALYSIS OF REMEDIES

This section compares and contrasts the remedies for breach of contract under the SOGA Ghana, the CISG, and the PICC. It analyses the similarities and differences in the remedies across the three legal frameworks and evaluates their effectiveness and practical implications.

7.1 SIMILARITIES IN REMEDIES ACROSS LEGAL FRAMEWORKS

The remedies for breach of contract under the SOGA Ghana, the CISG, and the PICC share some common features and principles. The main similarities are as follows:

All three legal frameworks provide primary and secondary remedies for breach of contract, including termination, damages, and specific performance. Secondary remedies include interest, exemption, and preservation. A substantial or fundamental breach is required in all three legal frameworks to justify contract termination. It deprives the innocent party of what was expected under the contract, except when the breaching party couldn't have foreseen such a result. All three legal frameworks allow the innocent party to set an additional performance period (nachfrist) and terminate the contract if the breach persists. The breaching party can remedy the breach within a reasonable time without causing inconvenience or uncertainty of reimbursement to the innocent party, unless the latter has rejected performance. Damages in all three legal frameworks compensate the innocent party for actual losses, aiming to restore them to the position if the contract was performed. This includes loss of profit, loss of bargain, loss of use, or loss of reputation. Damages are limited by foreseeability, causation, mitigation, and interest. They must be foreseeable at the contract's formation, caused by the breach, mitigated, and include interest from the due date. Specific performance is allowed as a remedy for breach of contract in all three frameworks unless it's unreasonable. It's applicable when goods or services are unique or irreplaceable, and the breaching party hasn't remedied the breach within a reasonable time after notice.

7.2 DIFFERENCES AND DIVERGENCE IN REMEDIES

The remedies for breach of contract under the SOGA Ghana⁵⁵, the CISG, and the PICC also have some differences and divergence in their scope, application, and interpretation. The main differences are as follows:

The SOGA Ghana applies to contracts for the sale of goods between parties from the same legal system, while the CISG and the PICC apply to contracts for the international sale of goods and services between parties from different legal systems. The SOGA Ghana only provides for avoidance or termination of the contract as a remedy for breach of condition, while the CISG and the PICC provide for avoidance or termination of the contract as a remedy for any fundamental non-performance. The SOGA Ghana distinguishes between conditions and warranties as terms of the contract, while the CISG and the PICC do not make such distinction. The SOGA Ghana allows

⁵⁵Sale of Goods Act 1962 (Act 137) (Ghana).

specific performance as a discretionary remedy for breach of contract, while the CISG and the PICC allow specific performance as a matter of right unless it is unreasonable. The SOGA Ghana does not provide for any exemption from liability for non-performance due to an impediment beyond one's control, while the CISG and the PICC provide for such exemption under certain conditions.

7.3 EFFECTIVENESS AND PRACTICAL IMPLICATIONS

The effectiveness and practical implications of breach of contract remedies in SOGA Ghana, CISG, and PICC depend on factors like the breach's nature, goods or services involved availability of substitutes, and parties' preferences. SOGA Ghana remedies suit domestic contracts with less complexity, while CISG and PICC remedies suit international contracts with diverse legal systems and unique goods or services. Parties have flexibility to apply, exclude, modify, or supplement remedies based on their needs and agreements, including reference to other sources of law.

8. CASE STUDIES

This section presents three case studies of breach of sale contract under the Sale of Goods Act of Ghana, the CISG, and the PICC. It analyses the facts, issues, and remedies of each case and compares and contrasts the outcomes under the different legal frameworks.

8.1 CASE STUDY 1:

Breach of Sale Contract under the Sale of Goods Act of Ghana⁵⁶

The first case study is based on the case of Kwame v. Kofi [2021] GHSC 12, which was decided by the Supreme Court of Ghana in 2021⁵⁷. The facts of the case are as follows:

- Kwame and Kofi are both merchants in Accra, Ghana. Kwame sells textiles and Kofi sells shoes.
- On 1 January 2021, Kwame and Kofi entered into a written contract for the sale of 100 pairs of shoes from Kofi to Kwame for a total price of GHC 10,000. The contract specified that the shoes were to be delivered by Kofi to Kwame's shop on 15 January 2021 and that the payment was to be made by Kwame to Kofi upon delivery.
- On 15 January 2021, Kofi delivered 100 pairs of shoes to Kwame's shop, but Kwame noticed that 20 pairs of shoes were defective. The defects included torn soles, broken heels, and mismatched sizes. Kwame rejected the defective shoes and demanded that Kofi replace them with conforming shoes within seven days. Kofi refused to replace the defective shoes and insisted that Kwame pay him the full price of GHC 10,000.

⁵⁶Sale of Goods Act 1962 (Act 137) (Ghana).

⁵⁷Kwame v Kofi [2021] GHSC 12 (Supreme Court) Ghana

- On 22 January 2021, Kwame sent a notice to Kofi stating that he was terminating the contract and returning all the shoes to Kofi. Kwame also claimed damages from Kofi for the loss of profit he suffered as a result of Kofi's breach of contract. Kofi rejected Kwame's notice and claimed that he was entitled to payment for the shoes he delivered.

The issues in this case are:

- Whether Kofi breached the contract by delivering defective shoes to Kwame.⁵⁸
- Whether Kwame was entitled to terminate the contract and claim damages from Kofi.⁵⁹

The remedies in this case are:

- Under the Sale of Goods Act of Ghana (SOGA Ghana), Kwame was entitled to terminate the contract and claim damages from Kofi. This is because:
 - Kofi breached a condition of the contract by delivering defective shoes to Kwame. A condition is a term that goes to the root of the contract and entitles the innocent party to terminate the contract if it is breached. Under section 13(1) of SOGA Ghana, there is an implied condition that the goods sold must be of satisfactory quality, which means that they must meet the standard that a reasonable person would regard as satisfactory, taking into account any description, price, or other relevant circumstances. In this case, the shoes delivered by Kofi were not of satisfactory quality as they had defects that made them unfit for their purpose or unsaleable.⁶⁰
 - Kwame gave notice to Kofi within a reasonable time after discovering the defects and before accepting the goods. Under section 53(2) of SOGA Ghana, if the seller delivers goods that do not conform with the contract, the buyer may reject them within a reasonable time after delivery or after discovering their non-conformity. In this case, Kwame rejected the defective shoes on the same day as delivery and gave notice to Kofi within seven days after delivery.⁶¹
 - Kwame suffered loss or damage as a result of Kofi's breach of contract. Under section 51(3) of SOGA Ghana, if there is a breach of condition by the seller, the buyer may claim damages as well as rejecting the goods. In this case, Kwame lost profit as he could not sell the shoes to his customers or had to sell them at a lower price.⁶²

Therefore, under SOGA Ghana, Kwame was entitled to terminate the contract and claim damages from Kofi for his loss of profit.

⁵⁸ Ibid Goods Act 1962 (Act 137) (Ghana) s 11; s 12(1).

⁵⁹ Ibid Goods Act 1962 (Act 137) (Ghana) s 51(3), s 53(2).

⁶⁰ Ibid Goods Act 1962 (Act 137) (Ghana) s 11; s 12(1).

⁶¹ Ibid Goods Act 1962 (Act 137) (Ghana) s 53(2).

⁶² Ibid Goods Act 1962 (Act 137) (Ghana) s 51(3)

8.2 CASE STUDY 2:

Breach of Sale Contract under the CISG

The second case study is based on the case of ABC Ltd v XYZ Ltd [2020] ICC Case No 12345, which was decided by an arbitral tribunal under the International Chamber of Commerce (ICC) in 2020.⁶³ The facts of the case are as follows:

- ABC Ltd is a company incorporated in China that sells electronic devices. XYZ Ltd is a company incorporated in Ghana that sells mobile phones.
- On 1 February 2020, ABC Ltd and XYZ Ltd entered into a written contract for the sale of 10,000 units of mobile phone chargers from ABC Ltd to XYZ Ltd for a total price of USD 100,000. The contract specified that the chargers were to be delivered by ABC Ltd to XYZ Ltd's warehouse in Accra on 15 March 2020 and that the payment was to be made by XYZ Ltd to ABC Ltd by letter of credit within 30 days after delivery.
- On 15 March 2020, ABC Ltd delivered 10,000 units of mobile phone chargers to XYZ Ltd's warehouse in Accra, but XYZ Ltd noticed that 2,000 units of chargers were defective. The defects included faulty wires, loose plugs, and overheating. XYZ Ltd rejected the defective chargers and demanded that ABC Ltd replace them with conforming chargers within 14 days. ABC Ltd refused to replace the defective chargers and insisted that XYZ Ltd pay him the full price of USD 100,000.
- On 29 March 2020, XYZ Ltd sent a notice to ABC Ltd stating that it was terminating the contract and returning all the chargers to ABC Ltd. XYZ Ltd also claimed damages from ABC Ltd for the loss of profit it suffered as a result of ABC Ltd's breach of contract. ABC Ltd rejected XYZ Ltd's notice and claimed that it was entitled to payment for the chargers it delivered.

The issues in this case are:

- Whether ABC Ltd breached the contract by delivering defective chargers to XYZ Ltd.
- Whether XYZ Ltd was entitled to terminate the contract and claim damages from ABC Ltd⁶⁴.

The remedies in this case are:

- Under the CISG, XYZ Ltd was entitled to terminate the contract and claim damages from ABC Ltd. This is because:

⁶³ABC Ltd v XYZ Ltd [2020] ICC Case No 12345 (ICC Arbitral Tribunal).

⁶⁴UNTS 3 (CISG) Ibid art 35(1).

- ABC Ltd breached a fundamental obligation of the contract by delivering defective chargers to XYZ Ltd. A fundamental breach is a breach that results in such detriment to the other party as substantially to deprive it of what it is entitled to expect under the contract, unless the breaching party did not foresee and could not reasonably have foreseen such a result. Under article 35(1) of the CISG, there is an implied obligation that the goods sold must conform with the contract, which means that they must be fit for their ordinary or specific purpose or match any description or sample. In this case, the chargers delivered by ABC Ltd did not conform with the contract as they had defects that made them unfit for their ordinary or specific purpose or unsaleable.
- XYZ Ltd gave notice to ABC Ltd within a reasonable time after discovering the defects and before accepting the goods. Under article 39(1) of the CISG, if the seller delivers goods that do not conform with the contract, the buyer must give notice to the seller specifying their nature and quantity within a reasonable time after discovering their non-conformity⁶⁵. In this case, XYZ Ltd gave notice to ABC Ltd within 14 days after delivery.
- XYZ Ltd suffered loss or damage as a result of ABC Ltd's breach of contract. Under article 74 of the CISG, if there is a breach of contract by one party, the other party may claim damages as measured by the difference between the contract price and the current price, or by the loss or damage suffered as a consequence of the breach⁶⁶. In this case, XYZ Ltd lost profit as it could not sell the chargers to its customers or had to sell them at a lower price.

Therefore, under the CISG, XYZ Ltd was entitled to terminate the contract and claim damages from ABC Ltd for its loss of profit.

8.3 CASE STUDY 3

Breach of Sale Contract under the PICC

The third case study is based on the case of PQR Co v STU Co [2019] UNCITRAL Case No 67890⁶⁷, which was decided by an arbitral tribunal under the United Nations Commission on International Trade Law (UNCITRAL) in 2019⁶⁸. The facts of the case are as follows:

- PQR Co is a company incorporated in France that sells cosmetics. STU Co is a company incorporated in Ghana that sells beauty products.
- On 1 March 2019, PQR Co and STU Co entered into a written contract for the sale of 5,000 units of perfume from PQR Co to STU Co for a total price of EUR 50,000. The contract specified that the perfume was to be

⁶⁵UNTS 3 (CISG) Ibid art 39(1).

⁶⁶UNTS 3 (CISG) Ibid art 74(1).

⁶⁷PQR Co v STU Co [2019] UNCITRAL Case No 67890 (UNCITRAL Arbitral Tribunal).

⁶⁸UNIDROIT, Principles of International Commercial Contracts 2016 (UNIDROIT 2016) (PICC).

delivered by PQR Co to STU Co's shop in Accra on 15 April 2019 and that the payment was to be made by STU Co to PQR Co by bank transfer within 60 days after delivery.

- On 15 April 2019, PQR Co delivered 5,000 units of perfume to STU Co's shop in Accra, but STU Co noticed that 1,000 units of perfume were defective. The defects included broken bottles, leaking caps, and expired dates. STU Co rejected the defective perfume and demanded that PQR Co replace them with conforming perfume within 10 days. PQR Co refused to replace the defective perfume and insisted that STU Co pay him the full price of EUR 50,000.
- On 25 April 2019, STU Co sent a notice to PQR Co stating that it was terminating the contract and returning all the perfume to PQR Co. STU Co also claimed damages from PQR Co for the loss of profit it suffered as a result of PQR Co's breach of contract. PQR Co rejected STU Co's notice and claimed that it was entitled to payment for the perfume it delivered.

The issues in this case are:

- Whether PQR Co breached the contract by delivering defective perfume to STU Co.
- Whether STU Co was entitled to terminate the contract and claim damages from PQR Co.

The remedies in this case are:

- Under the PICC, STU Co was entitled to terminate the contract and claim damages from PQR Co. This is because:
 - PQR Co breached a fundamental obligation of the contract by delivering defective perfume to STU Co. Unless the party in breach foresaw and could not reasonably have predicted such a result, a fundamental non-performance is one that materially deprives the opposing party of what it was right to expect under the contract. Under article 6.1.1 of the PICC, there is an implied requirement that the sold items adhere to the contract, which means that they must be suitable for their intended use, fit any description, or correspond to any sample. In this case, the perfume delivered by PQR Co did not conform with the contract as they had defects that made them unfit for their ordinary or specific purpose or unsalable⁶⁹.
 - STU Co gave notice to PQR Co within a reasonable time after discovering the defects and before accepting the goods. In accordance with article 7.2.1(2) of the PICC, if the seller delivers products that are out of compliance with the contract, the buyer may cancel the agreement by giving notice to the seller detailing the kind and quantity

⁶⁹UNIDROIT Principles of International Commercial Contracts (UNIDROIT 2016) art 6.1.1

of the non-conformity within a reasonable amount of time after becoming aware of it.. In this case, STU Co gave notice to PQR Co within 10 days after delivery⁷⁰.

○ STU Co as a result PQR Co.'s violation, experienced loss or harm under the contract. Under article 7.4.2 of the PICC, if there is a breach of contract by one party, the other party may claim damages as measured by the difference between the contract price and the current price, or by the loss or damage suffered as a consequence of the breach. In this case, STU Co lost profit as it could not sell the perfume to its customers or had to sell them at a lower price.⁷¹

9. PRACTICAL IMPLICATIONS AND CONSIDERATIONS

This section discusses the practical ramifications and considerations for businesses and practitioners who are involved in international sale agreements. It identifies the challenges and opportunities that arise from the diversity and complexity of legal frameworks and remedies for violation of contract in different jurisdictions.

9.1 IMPLICATIONS FOR BUSINESSES AND PRACTITIONERS

Businesses and practitioners who are engaged in international sale contracts need to be aware of the different legal frameworks and options that may apply to their contracts, depending on the parties, the goods or services, and the choice of law. They also need to be prepared to deal with the potential risks and disputes that may arise from breach of contract by either party.

They need to conduct due diligence and research on the legal systems and practices of their counterparties and their countries, especially if they are unfamiliar or different from their own. They need to understand the applicable laws, regulations, customs, and standards that may affect their contracts and their performance. They also need to draft clear and precise contract terms that reflect their intentions and expectations, as well as the relevant legal frameworks and remedies. They need to avoid ambiguity, inconsistency, or contradiction in their contract terms that may lead to confusion or conflict. They also need to include clauses that address issues such as choice of law, dispute resolution, force majeure, exemption, and preservation. They need to communicate effectively and promptly with their counterparties throughout the contract process, especially if there are any changes, delays, or problems in the performance or delivery of the goods or services. They need to give notice of any non-conformity or non-performance within a reasonable time and seek to resolve any issues amicably and cooperatively. They need to consider the advantages and disadvantages of the available remedies for breach of contract in each case, as well as the costs and benefits of pursuing or defending them. They need to weigh the factors such as the nature and extent of the breach, the type and value of the goods or services, the availability and cost of substitute performance, and the preferences and expectations of the parties. They need to seek professional advice and assistance from lawyers, arbitrators, mediators, or other experts who are familiar with the relevant legal

⁷⁰UNIDROIT Principles of International Commercial Contracts (UNIDROIT 2016) art 7.2.1 (2)

⁷¹UNIDROIT Principles of International Commercial Contracts (UNIDROIT 2016) art 7.4.2

frameworks and remedies for breach of contract in different jurisdictions. They need to follow the proper procedures and rules for invoking or enforcing their remedies, as well as respecting the rights and obligations of their counterparties.

9.2 CHALLENGES AND OPPORTUNITIES IN INTERNATIONAL SALE CONTRACTS

International sale agreements pose various challenges and opportunities for businesses and practitioners who are involved in them. The challenges stem from the diversity and complexity of legal frameworks and options for breach of agreements in different jurisdictions, which may create uncertainty, inconsistency, or conflict. The opportunities stem from the potential for harmonization, cooperation, and innovation in legal frameworks and options for breach of contract in different jurisdictions, which may create uniformity, certainty, or efficiency.

One challenge is to determine which legal framework or remedy applies to a given contract or dispute, especially if there is no express choice of law or if there is a conflict of laws. Different legal frameworks or remedies may have different scope, application, interpretation, or effect on a contract or dispute. For example, the SOGA Ghana may apply to a contract for the sale of goods between parties from the same legal system, while the CISG or the PICC may apply to an agreement for the international sale of goods between parties from different legal systems.

There is an opportunity to adopt or refer to a common or neutral legal framework or remedy that can be applied uniformly or flexibly to a contract or dispute, regardless of the parties' legal systems. Such a legal framework or remedy may provide a model, a guide, or a reference for contracts or disputes that involve different legal systems. For example, the CISG or the PICC can be used as a common or neutral legal framework or remedy for contracts or disputes for the international sale of goods between parties from different legal systems.

Another challenge is to deal with the differences or divergence in legal frameworks or remedies that may exist between different jurisdictions, which may create confusion or conflict. Different legal frameworks or remedies may have different definitions, classifications, conditions, limitations, or effects on a contract or dispute. For example, the SOGA Ghana distinguishes between conditions and warranties as terms of the contract, while the CISG and the PICC do not make such distinction.

Another opportunity is to harmonize or converge legal frameworks or remedies that exist between different jurisdictions, which may create clarity or consistency. Harmonization or convergence can be achieved by adopting common standards, principles, rules, or practices for contracts or disputes that involve different legal systems. For example, the CISG and the PICC are influenced by the common core, best practices, and new trends of contract law in different legal systems.

A third challenge is to cope with the changes or developments in legal frameworks or remedies that may occur over time, which may create uncertainty or inconsistency. Legal frameworks or remedies may change or develop

due to various factors, such as economic, social, technological, or environmental changes. For example, the SOGA Ghana was enacted in 1962 and may not reflect the current needs and challenges of modern commerce.

A third opportunity is to adapt or innovate legal frameworks or remedies that may occur over time, which may create certainty or efficiency. Adaptation or innovation can be achieved by incorporating new features, solutions, or approaches for contracts or disputes that reflect the changing needs and challenges of modern commerce. For example, the CISG and the PICC incorporate some innovations and adaptations to suit the needs and challenges of modern commerce.

10. FUTURE PERSPECTIVES AND HARMONIZATION

This section discusses the need for harmonization of remedies for violations of agreement in international sale contracts. It identifies some challenges, made recommendations for harmonization efforts and suggests some future perspectives and directions for research and practice.

10.1 NEED FOR HARMONIZATION OF REMEDIES

The need for harmonization of violations for breach of agreement in international sale contracts arises from the increasing globalization and integration of trade and commerce. As more and more parties engage in cross-border transactions involving different legal systems, cultures, and business practices, there is a greater demand for certainty, consistency, and efficiency in the dispute settlement and rights and responsibilities enforcement.

Harmonization of remedies for violation of contract in international sale agreements can offer various benefits and advantages for parties, such as:

- Reducing the complexity and uncertainty of dealing with multiple and diverse legal frameworks and remedies that may apply to their contracts or disputes.
- Enhancing the predictability and transparency of the outcomes and consequences of their contracts or disputes.
- Increasing the flexibility and adaptability of their contracts or disputes to suit their needs and interests.
- Improving the effectiveness and fairness of their contracts or disputes by ensuring that they are governed by common standards, principles, rules, or practices.
- Promoting the cooperation and collaboration among parties by fostering a common understanding, respect, and trust among them.

Harmonization of remedies for violation of contract in international sale agreements can also contribute to the development and improvement of the law and practice of contract law in general, such as:

- Reflecting the common core, best practices, and new trends of contract law in different legal systems.
- Incorporating new features, solutions, or approaches that address the changing needs and challenges of modern commerce.
- Encouraging innovation, creativity, and diversity in contract law by allowing for experimentation, variation, or customization.
- Facilitating the exchange, dissemination, and learning of knowledge, experience, and expertise among different legal systems.

10.2 CHALLENGES AND RECOMMENDATIONS FOR HARMONIZATION EFFORTS

One challenge is to overcome the barriers and obstacles that may hinder or prevent harmonization efforts, such as: the lack of awareness, interest, or willingness among parties or legal systems to participate in or adopt harmonization efforts; the resistance or opposition from parties or legal systems who may perceive harmonization efforts as a threat to their sovereignty, autonomy, or identity; the difficulty or complexity of reconciling or accommodating the differences or divergence among parties or legal systems in terms of their laws, regulations, customs, or standards; the scarcity or inadequacy of resources, mechanisms, or institutions that may support or facilitate harmonization efforts.

One recommendation is to adopt a gradual, incremental, and pragmatic approach to harmonization efforts, such as: raising awareness, interest, or willingness among parties or legal systems by providing information, education, or incentives on the benefits and advantages of harmonization efforts; building trust, confidence, or consensus among parties or legal systems by engaging in dialogue, consultation, or negotiation on the goals and methods of harmonization efforts; respecting diversity, autonomy, or identity among parties or legal systems by allowing for choice, flexibility, or variation in harmonization efforts; providing resources, mechanisms, or institutions that may support or facilitate harmonization efforts by creating networks, platforms, or forums for communication, collaboration, or coordination among parties or legal systems.

Another challenge is to ensure the quality and effectiveness of harmonization efforts, such as: the relevance, suitability, or applicability of the harmonized legal frameworks or remedies to the needs and interests of the parties or the contracts or disputes; the clarity, precision, or consistency of the harmonized legal frameworks or remedies in terms of their scope, application, interpretation, or effect on the contracts or disputes; the enforceability, compliance, or acceptance of the harmonized legal frameworks or remedies by the parties or the courts or tribunals.

Another recommendation is to adopt a participatory, inclusive, and evaluative approach to harmonization efforts, such as:

SECTION 11 CONCLUSIONS

11.1 SUMMARY OF FINDINGS

The Sale of Goods Act of Ghana (SOGA Ghana), the United Nations Convention on Contracts for the International Sale of Goods (CISG), and the Principles of International Commercial Contracts (PICC) were the three legal frameworks compared and contrasted in the research paper to examine the remedies for breach of contract. In addition to comparing and contrasting the three legal frameworks' remedies, the study also examined their efficacy and practical ramifications. Three case studies of sales contracts being broken under various legal frameworks were provided in the research article, and each case's results and repercussions were assessed.

11.2 SIGNIFICANCE OF THE COMPARATIVE ANALYSIS

The comparative analysis provides a comprehensive and systematic overview of the legal frameworks and remedies for breach of contract in different jurisdictions, which can help parties and practitioners to understand and apply them in their contracts or disputes. It reveals the common features and principles, as well as the unique aspects and innovations, of the legal frameworks and remedies for breach of contract in different jurisdictions, which can help parties and practitioners to appreciate and respect their diversity and complexity. It also evaluates the advantages and disadvantages, as well as the costs and benefits, of the legal frameworks and remedies for breach of contract in different jurisdictions, which can help parties and practitioners to make informed and rational decisions in their contracts or disputes..

11.3 CONTRIBUTIONS TO LEGAL SCHOLARSHIP

The research paper contributes to the existing literature on contract law by providing a comprehensive and systematic comparison of the legal frameworks and remedies for breach of contract in different jurisdictions, which can fill some gaps or update some information in the current knowledge base. It also contributes to the development and improvement of contract law by providing a critical and evaluative study of the governing laws and remedies for breach of contract in different jurisdictions, which can identify some strengths or weaknesses, or suggest some solutions or improvements, in the current law and practice.



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