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Article 43

(1) The buyer loses the right to rely on the provisions of article 41 or article 42 if he does not give notice to the seller specifying the nature of the right or claim of the third party within a reasonable time after he has become aware or ought to have become aware of the right or claim.

(2) The seller is not entitled to rely on the provisions of the preceding paragraph if he knew of the right or claim of the third party and the nature of it.

Article 43 in general

1. Article 43 (1) imposes on the buyer a notice requirement with respect to breaches of articles 41 and 42. Article 43 (2) provides for a defence for a buyer's failure to give the notice required by article 43 (1). The provisions of article 43 parallel in many ways the notice requirement and defence thereto that articles 39 and 40 establish with respect to breaches of article 35.

* The present digest was prepared using the full text of the decisions cited in the Case Law on UNCITRAL Texts (CLOUT) abstracts and other citations listed in the footnotes. The abstracts are intended to serve only as summaries of the underlying decisions and may not reflect all the points made in the digest. Readers are advised to consult the full texts of the listed court and arbitral decisions rather than relying solely on the CLOUT abstracts.

Decisions relating to the interpretation of article 43

2. There is very little in the way of decisions construing article 43. Presumably those called upon to interpret article 43 (1) or 43 (2) may look for guidance from the numerous decisions that apply the parallel provisions of article 39 and 40, although the differences between those provisions and article 43 should certainly be kept in mind.
