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Article 60

The buyer's obligation to take delivery consists:

- (a) In doing all the acts which could reasonably be expected of him in order to enable the seller to make delivery; and
- (b) In taking over the goods.

Introduction

1. This provision defines the buyer's obligation to take delivery of the goods, one of the two basic obligations of the buyer set forth in article 53. The obligation to take delivery involves the two elements described in the provision.

* 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.

Duty to cooperate

2. Article 60 (a) imposes upon the buyer a duty to cooperate. The buyer must “do all the acts which could reasonably be expected of him in order to enable the seller to make delivery”.¹ The specific content of this duty to cooperate will vary with the variation of the contractual terms. By way of illustration of article 60 (a), it may be noted that if the place of delivery is the place of business of the buyer, he must ensure that the seller has access to those premises and, in the event that the seller is called upon to install equipment, the site must be appropriately prepared for that purpose.

Buyer’s duty to take over the goods

3. Article 60 (b) sets out the second element of the buyer’s obligation to take delivery, namely the buyer’s duty to take over the goods at the place where the seller is to deliver them.² The arrangements for taking over the goods depend on the form of delivery agreed upon by the parties. For example, when the obligation to deliver consists in putting the goods at the disposal of the buyer in the seller’s place of business (article 31 (c)), the buyer must either remove the goods or have them removed by a third party of its own choice.

Right to reject the goods

4. Article 60 says nothing about cases in which the buyer is entitled to reject the goods. The Convention foresees two specific cases, that of delivery before the date fixed (article 52 (1)) and that of delivery of a quantity of goods greater than that provided for in the contract (article 52 (2)). It must also be noted that the buyer has the right to reject the goods if a breach of contract committed by the seller is fundamental (article 25), which gives the buyer the right to declare the contract avoided (article 49 (1) (a)) or to demand delivery of substitute goods (article 46 (2)). As was found in one court decision, the buyer is required to take delivery of the goods when a fault in conformity does not constitute a fundamental breach.³ When the buyer is entitled to reject the goods, he may nevertheless be required to take possession of them with a view to preserving them (article 86).

¹ US District Court for the Southern District of New York, United States, 10 May 2002, available on the Internet at <<http://www.cisg.law.pace.edu/cisg/wais/db/cases2/020510u1.html>>.

² CLOUT case No. 47 [Landgericht Aachen, Germany, 14 May 1993] (see full text of the decision).

³ CLOUT case No. 79 [Oberlandesgericht Frankfurt a.M., Germany, 18 January 1994] (see full text of the decision).