Table of Contents

Introduction	1
Chapter I	
Uniformity and Jurisconsultorium	3
A. Defining Uniformity and Introducing the Jurisconsultorium	3
B. The Working Definition of 'Uniformity'	6
C. Textual Uniformity	7
D. Modern Uniform Law as a Unique Discipline in	
Law – The Jurisconsultorium	9
E. Relativity of Uniformity	14
Chapter II Introducing the CISG and Its Uniformity	19
	10
A. A Brief Background of the CISG	19
B. The CISG and Multicultural Diversity C. The CISC in a Clabelized Context. Terminal acided Deliberations	21
C. The CISG in a Globalized Context – Terminological Deliberations	23 23
 Supranational? Transgovernmental? 	25 26
D. The CISG and Its Relationship to Other International Law – Article 90	26
E. The Three Functions of Article 7	28
1. Basis of a Uniform Label	28
2. Basis for a Jurisconsultorium	30
3. Basis of the Interpretational Challenge	30
a. Interpretational Guidelines Are Not Enough	30
b. Dynamic Interpretation, Fairness and Uniformity	31
c. The CISG and the Vienna Law of Treaties	32
F. Defining the Uniformity of the CISG	34
1. Functional Uniformity	34
2. Relative Uniformity	35
3. Many Types of Uniformity – Many Levels of Uniformity	36
a. Substantive Uniformity: Autonomous Terminology	37
(1) CISG as a Lingua Franca?	37
(2) Autonomous Terms = High Uniformity Level	38
(3) Flexible Application $=$ Low Uniformity Level	39

b. Uniformity in Scope	40
c. Uniformity in Scope c. Uniformity in Classification	41
4. Intermediary Conclusions on the Definition	11
of Uniformity of the CISG	41
of Office Ciso	TI
Chapter III	
The Jurisconsultorium of the CISG – The Tool to Uniform Application	45
A. A Tool to Uniform Application	46
B. The Practical Jurisconsultorium – The CISG Precedent	48
1. Basis for a CISG Precedent	48
2. Nature of a CISG Precedent	48
a. Terminological Caution	49
b. Definitely Not Binding	50
c. Probably Not Persuasive – Definitely Inspirational	51
3. Criteria for CISG Precedents	53
4. Parallels of Precedents of the UCC and the CISG	54
5. Precedents and Procedure	56
C. CISG Case Law Using CISG Precedents	57
D. Defining the CISG Precedent	62
1. Overlooking the Duty to Apply Precedents	63
E. Jurisconsultorium Prerequisties: Availability and Weighting of Sources	65
1. Accessibility to Case Law: Electronic Sources	66
a. Electronic Sources – An Invaluable Tool	66
2. Cases from Inaccessible Jurisdictions	68
3. Availability of Arbitral Awards	69
4. Travaux Préparatoires	72
F. Scholarly Jurisconsultorium	74
1. Cooperating to Free Us All from Homeward Trends	74
2. Incongruent Scholarly Jurisconsultorium –	
Pitfalls for Practitioners	75
a. Binding Scholars to Observe CISG Case Law?	78
b. International Scholarly Cooperation Preferable	79
3. Part of the Jurisconsultorium: The Scholarly Panels of Experts	79
a. CISG AC	80
b. The Uncitral Digest	81
Chapter IV	
Cataloguing the Issues of Uniformity in the CISG	85
A. Substantive Interpretation: Legal Linguistics	86
1. Autonomy and Multilingualism	87
2. Faux Amis	91

Tak	ble of Contents	ix
	a The Article 17 Example	92
	a. The Article 47 Example b. Four Amic Despite Terminological Noutrality of the	92
	b. Faux Amis Despite Terminological Neutrality of the	93
	CISG – Article 79 a. Four Amic in the Melving? CISC of Model I over	0.9
	c. Faux Amis in the Making? – CISG as Model Law	99
	3. Other Undue Influence of Domestic Law – A Homeward Trend	101
	4. Vague Terminologya. Article 8(2) and Other Reasonableness	101
	b. The Strength of Vagueness	102
D		105
	The Scope of the Conventions Application 1. The Importance of a Congruent Sphere	105
	 The Importance of a Congruent Sphere The CISG Overlooked 	105
	2. The CISO Overrooked 3. The Issue of Reservations	108
		111
	4. Convention Hierarchy: Articles 6 and 9 5. Jacobs of Internationality: Articles 1 and 10	111
	5. Issues of Internationality: Articles 1 and 10 6. Conclusions on the Uniformity of the Scope of the CISC	115
	6. Conclusions on the Uniformity of the Scope of the CISG	110
	Legal Classification 1. Articles 1 through 4 and Classification	117
	 Articles 1 through 4 and Classification Contract – Consideration? 	117
	b. Place of Business?	118
	c. Sale – The Example of eBay: Auction or Sale?	118
	d. Goods – The Example of Software	110
	2. Substantive Classification Determining CISG Application	121
	a. The Example of Article 74 and Attorneys' Fees	121
D	Gap-Filling: Article 7(2)	125
	1. Classifying Gaps – The Article 78 Example	125
	2. 'General Principles' – A Big Problem?	127
	2. Otherwise Applicable Law	130
	4. UNIDROIT and PECL – Standard Gap Filling?	130
	4. UNIDROIT and FECL – Standard Cap Finning:	130
Ch	apter V	
	amples of Specific Provisions: Methodology, Selection, Analysis	133
Α	Structure and Introduction	134
	Selecting Relevant Provisions	134
٠ مـــــــ	1. Examination and Notification According to Articles 38 and 39	135
	2. Exceptions to the Examination and Notification	
	Duty: Articles 40 and 44	135
	Briefly on German Law	130
· .	1. More Potential CISG Cases	136
	2. More International Sales Cases to Which the CISG Is Applied	136

3. These Cases Are More Likely to Be Reported

E. Introducing the Problems of Uniformity of the Provisions

141

D. Introducing the Provisions

 Problems of Examination and Notification Problems of Exceptions to the Notification Rule Sphere of Application and Domestic Gap-Filling Determining 'Could Not Have Been Unaware' Determining 'Disclosed to the Buyer' Determining 'Reasonable Excuse' The Relationship Between Articles 38 and 39(1) and the Mix Up of Their Timeframes 	141 143 144 145 145
The first and the first th	
Chapter VI Examples of Specific Provisions: Examination and Notification	149
A. Article 38 CISG and the Duty to Examine Goods	150
1. Timeframe – Discernible Defects	150
a. Early Delivery	151
b. Obvious Defects	152
c. Setting Up Fixed Guidelines?	153
2. Timeframe – Hidden Defects or Not Easily Discernible	
Nonconformities	154
3. Extent of Article 38 Examination	155
4. Exemptions from Article 38 in Article 38	159
B. Article 39 CISG and the Duty to Notify of Nonconformities	162
1. Reasonable Time in Article 39(1)	162
a. Strict Interpretations	164
b. Formulating Set Guidelines	170
(1) The Noble Month	1/1
(2) The Death of the 'Noble Month'?	177
(3) 14 Days after Delivery – Seven Days for Notice	178
(4) 14 Days for Notification after Discovery	181
c. The Buyer-Friendly Approach?	182
d. Reasonable Time in the Jurisconsultorium	185
2. Specificity of Notice	187
3. Form of Notice Conclusions on the Uniformity of Articles 29 and 20	190
C. Conclusions on the Uniformity of Articles 38 and 39	193
Chapter VII Every les of Crosife Drovisiones Every to the Netife of Crosife Drovisiones Every to the Crosife Drovisiones Every to the Netife of Crosife Drovisiones Every to the Crosife	100
Examples of Specific Provisions: Exceptions to the Notification Rule	197
A. Sphere of Application of Article 40	197
1. Article 40 and Convention Hierarchy – Articles 6 and 9	197
2. The Role of Article 40 in Context of CISG part III	201
3. Applying Article 40 to 39(2) as Well as 39(1)	204

Table of Contents	X1
B. The Determination of 'Could Not Have Been Unaware' and its Burden of Evidence	207
	207
 A Standard of Awareness as a Rule of Good Faith Proving 'Could Not Have Been Unaware' that the 	200
Nonconformity Existed	211
3. Proving 'Could Not Be Unaware' that the	
Nonconformity Was Such to the Buyer	213
C. The Determination of 'Disclosed to the Buyer'	218
D. The Determination of 'Reasonable Excuse'	220
E. Conclusions on the Uniformity of the Notification Rule Excep	tions 224
Chapter VIII	
Conclusions on the Uniformity of the CISG	227
A. Synopsis of the Preceding Chapters	227
B. Main Conclusions	228
C. CISG: Success in Uniformity?	230
1. Success in Global Drafting and Membership	230
2. Success in Application	231
D. Standard of Uniformity?	232
Appendix A	
Index of Authorities	235
Annondiv R	
Appendix B Index of International Case Law on Articles 38, 39, 40,	
and 44 of the CISG	255
Index	281