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Sales of Goods Issues: Introduction

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During the Third Annual Conference of the *Journal of Contract Law* held in Toronto on 20 October 1992, one of the major points of discussion was the relationship of the domestic law of sales in various common law countries to the United Nations Convention on the International Sale of Goods. No one questions the growing importance of international transactions in commercial law. The interconnections of major economies are obvious. Small companies and consumers often have as much interest in the law governing international transactions as large, multinational corporations. Serious commercial lawyers can no longer rely on their knowledge of domestic law to be effective counsellors for their clients.

The importance of international commercial transactions may be apparent, but creating a coherent body of international commercial law that is consistent with the general expectations of clients and lawyers who are comfortable with a particular domestic law is not so simple. The limited experience already available under the United Nations Convention makes this clear. The Convention includes rules and standards borrowed from both the civil law and common law traditions. All good commercial lawyers understand that the civil law and the common law follow quite different paths in their approaches to various issues of contract law. Indeed, common lawyers readily acknowledge substantial differences among the various common law jurisdictions. Trying to put these various approaches together in a single comprehensive code for international sales transactions was no minor task, and, on the whole, the Convention provides a reasonably workable outline for sales transactions. Nevertheless, it contains a number of surprises and potential traps for the common lawyer or the civil lawyer who fails to examine the applicable articles with care.

In his article, Associate Professor John Carter examines several of the more significant differences between the general common law contract rules of Australia and England and the provisions of the Convention. Professor Richard Speidel, in his commentary on Associate Professor Carter's article, takes some of the same issues and examines them in the context of Article 2 of the Uniform Commercial Code which governs sales transactions in the United States. Both writers focus on issues of default. One of the critical differences between the Uniform Commercial Code and the Convention, for example, lies in the distinction between the 'perfect tender rule" of the UCC and the 'fundamental breach' default rule of the Convention.

As the Convention becomes more widely understood by commercial lawyers, it will be important and interesting to watch the ways in which courts interpret and apply the Convention. An American court, for example, might be inclined to read into the Convention an obligation of

good faith which has become an important aspect of American commercial law. The articles and commentaries which follow, however, provide commercial lawyers with a good introduction and guide to some of the more difficult problems presented by the Convention and its application to sales transactions between parties in differing signatory states.