CISG Article 3

Overview of CISG Article 3

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CISG does not define sale of goods

Art. 30 + Art. 53 = guidance on defining sale of goods

Seller's obligation:

- delivery of conforming goods

- hand-over any documents related to the goods

- transfer of property

Buyer's obligation:

- pay the price

- take delivery

Sale of goods under the CISG
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Transfer of property and delivery of goods

Border line issues:

1. Sale of intangible goods - e.g., software

2. Transactions entails services - Art. 3 CISG

Art 3.1 CISG

Contract for the supply of goods to be manufactured or produced

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Sale of goods for the purpose of CISG → *Unless the party who orders the goods undertakes to supply a substantial part of the materials necessary for such manufacture or production*

Pro Convention approach

Exception:

Substantial part of the material provided by the buyer

Reasoning:

The transfer of property is minimal

Art. 3.2 CISG

This Convention does not apply to contracts in which the preponderant part of the obligations of the party who furnishes the goods consists in the supply of labour or other services.

Example 1.

A agrees with B to deliver a machine to B and to install it in B's factory. B agrees to pay for the machine and for the installment.

Is this a contract for sale of goods under the CISG? ⟶ A's obligation = supply of goods + supply for service

If the installment is the **preponderant** part of A's obligation the contact **is not a sale of goods** under the CISG
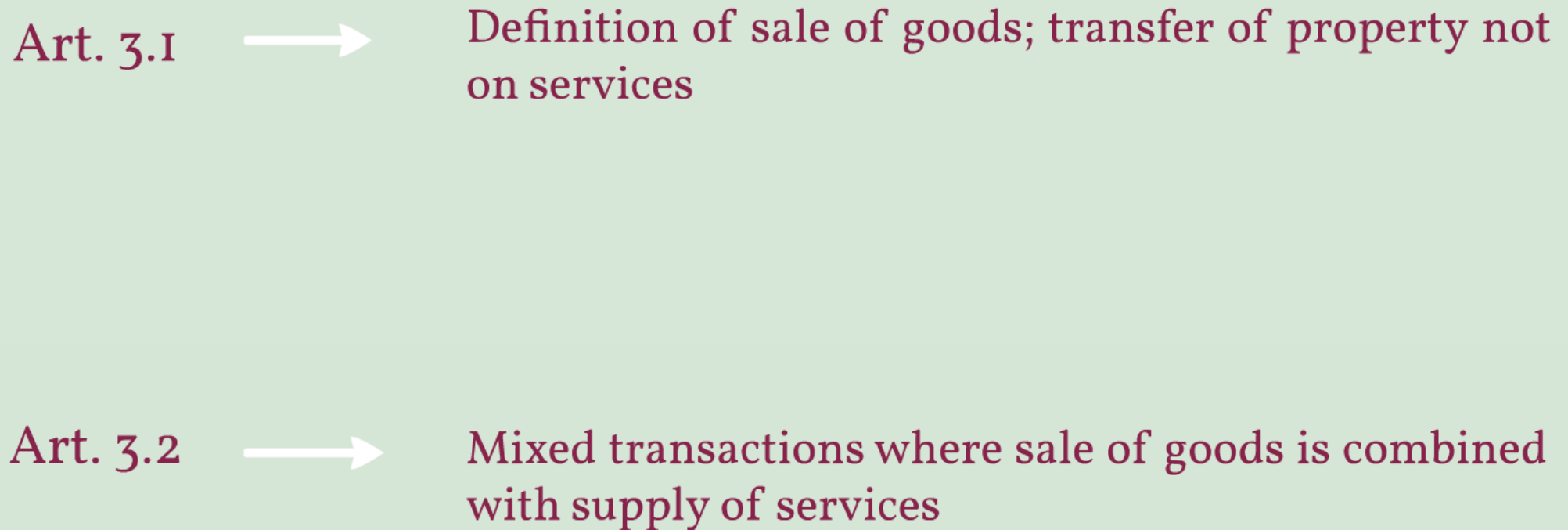
Example 2.

A agrees to manufacture to B a machine using its own materials, to deliver it and install it in B's factory. B agrees to pay the manufacture, delivery and installment of the machine.

Is this a contract for sale of goods under the CISG? ⟶ A's obligation entails two elements of service: manufacturing and installment

The **preponderant part** = economic value between the goods and the installment

Relation between Arts. 3.1 and 3.2 CISG

Art. 3.1   ⟶   Definition of sale of goods; transfer of property not on services

Art. 3.2   ⟶   Mixed transactions where sale of goods is combined with supply of services

CISG Article 3