



**United Nations Commission
on International Trade Law**

**UNCITRAL Digest of case law on the United Nations
Convention on the International Sale of Goods***

Article 28

If, in accordance with the provisions of this Convention, one party is entitled to require performance of any obligation by the other party, a court is not bound to enter a judgement for specific performance unless the court would do so under its own law in respect of similar contracts of sale not governed by this Convention.

Meaning and purpose of the provision

1. The article constitutes a compromise between legal systems that deal differently with the contractual right of a party to claim specific performance of the contract. According to article 28, a court is not obliged to grant specific performance under the Convention if it would not do so for similar sales contracts under domestic law.
2. “Specific performance” means that a party may require the other party to perform its obligations under the contract (and seek enforcement through court

* 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.

action). For example, the buyer may require that the seller delivers such quantity and quality of steel as contracted.¹

3. There is little case law on this provision; only one case has been reported thus far.² In that case, a court stated that where the Convention entitles a party to claim specific performance article 28 allows the seized court to look to the availability of such relief under its own substantive law in a like case.³ If the national law would equally grant specific performance in the case at hand no conflict with the Convention and no problem arises.⁴ If the national law would, however, disallow specific performance the alternative relief—regularly damages—had to be granted. Nevertheless, article 28 provides that the court “is not bound” to adopt the solution of its national law regarding specific performance in the context of an international sale of goods under the Convention.

¹ CLOUT case No. 417 [Federal District Court, Northern District of Illinois, United States, 7 December 1999].

² CLOUT case No. 417 [Federal District Court, Northern District of Illinois, United States, 7 December 1999] is apparently the only CISG case to consider this issue.

³ CLOUT case No. 417 [Federal District Court, Northern District of Illinois, United States, 7 December 1999]: “Simply put, [CISG Article 28] looks to the availability of such relief under the UCC.”

⁴ That was the outcome in CLOUT case No. 417 [Federal District Court, Northern District of Illinois, United States, 7 December 1999].