



**United Nations Commission
on International Trade Law****UNCITRAL Digest of case law on the United Nations
Convention on the International Sale of Goods****Article 50*

If the goods do not conform with the contract and whether or not the price has already been paid, the buyer may reduce the price in the same proportion as the value that the goods actually delivered had at the time of the delivery bears to the value that conforming goods would have had at that time. However, if the seller remedies any failure to perform his obligations in accordance with article 37 or article 48 or if the buyer refuses to accept performance by the seller in accordance with those articles, the buyer may not reduce the price.

Meaning and purpose of the provision

1. The article allows for a price reduction when the seller delivered goods which do not conform with the contract. The buyer then may reduce the price in proportion to the reduced value of the goods. The remedy is, however not available if the seller has cured any defect of the goods either under article 37 or under article 48 or if the buyer has refused the seller the opportunity to such cure.

* 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.

Prerequisites of price reduction

2. Article 50 requires that it is established that the sold goods do not conform with the contract.¹ Non-conformity is to be understood in the sense of article 35, *i.e.*, defects as to quantity,² quality, description (*aliud*) and packaging. Also defects of documents relating to the goods can be treated as a case of non-conformity.³ The remedy of price reduction is, however, not available if the breach of contract is based upon late delivery⁴ or the violation of any other obligation of the seller.
3. Price reduction applies irrespective whether the non-conformity constitutes a fundamental or a simple breach of contract, whether or not the seller acted negligently or whether the seller was exempted from liability under article 79. The remedy does also not depend on the fact whether the buyer has already paid.⁵
4. Price reduction presupposes, however, that the buyer has given notice of the lack of conformity of the goods in accordance with article 39 (or 43).⁶ Without due notice the buyer is not allowed to rely on the lack of conformity and loses all remedies.⁷ Article 44 establishes an exception where the buyer can reasonably excuse its failure to give notice of defect.⁸
5. It has been observed that article 50 further requires that the buyer express its intention to reduce the price.⁹
6. Article 50, second sentence, states the more or less self-evident rule that the remedy of price reduction is no longer available when the seller has remedied any defects either under article 37 (cure in case of early delivery) or under article 48 (cure after date for delivery). The same result applies if the buyer refuses to accept performance when the seller has offered cure in accordance with articles 37 or 48.¹⁰
7. As provided for in article 45 (2), the buyer can combine several remedies under articles 46–52; consequently, the buyer can also combine price reduction with a damages claim. However, where damages are claimed in combination with price

¹ [Federal] Southern District Court of New York, 6 April 1994, Unilex; CLOUT case No. 377 [Landgericht Flensburg, Germany, 24 March 1999] (see full text of the decision).

² Including the weight of the goods, see [Federal] Southern District Court of New York, 6 April 1994, Unilex.

³ Article 48 to which article 50 refers covers also the cure of documents, *see* Digest, article 48.

⁴ Landgericht Düsseldorf, Germany, 5 March 1996, Unilex.

⁵ *See Official Records of the United Nations Conference on Contracts for the International Sale of Goods, Vienna, 10 March–11 April 1980* (United Nations publication, Sales No. E.81.IV.3), 42, para. 5.

⁶ CLOUT case No. 56 [Canton of Ticino Pretore di Locarno Campagna, Switzerland, 27 April 1992].

⁷ CLOUT case No. 48 [Oberlandesgericht Düsseldorf, Germany, 8 January 1993]; CLOUT case No. 273 [Oberlandesgericht München, Germany, 9 July 1997]; CLOUT case No. 303 [Arbitration—International Chamber of Commerce No. 7331 1994]; CLOUT case No. 343 [Landgericht Darmstadt, Germany, 9 May 2000] (see full text of the decision).

⁸ In this respect, *see*, e.g., CLOUT case No. 303 [Arbitration—International Chamber of Commerce No. 7331 1994]; CLOUT case No. 273 [Oberlandesgericht München, Germany, 9 July 1997].

⁹ CLOUT case No. 83 [Oberlandesgericht München, Germany, 2 March 1994].

¹⁰ CLOUT case No. 282 [Oberlandesgericht Koblenz, Germany, 31 January 1997].

reduction, damages can only be awarded for any loss other than the reduced value of the goods because this loss is already reflected by the price reduction.¹¹

Calculation of price reduction

8. The amount of price reduction has to be calculated in a proportionate way. The contract price has to be reduced in proportion of the value of the delivered goods to the value conforming goods would have. The relevant date for the comparison of values is the date of actual delivery at the place of delivery.¹²

Place of performance

9. The place of performance of the remedy of price reduction is located where the place of performance for the delivery of the goods lies.¹³

¹¹ CLOUT case No. 248 [Schweizerisches Bundesgericht, Switzerland, 28 October 1998] (see full text of the decision).

¹² CLOUT case No. 56 [Canton of Ticino Pretore di Locarno Campagna, Switzerland, 27 April 1992]; CLOUT case No. 175 [Oberlandesgericht Graz, Austria, 9 November 1995] (see full text of the decision).

¹³ CLOUT case No. 295 [Oberlandesgericht Hamm, Germany, 5 November 1997].