

The Scope and Applications of International Trade agreement to the companies without legal status

Dr. Nashat Mahmoud Abdalla Jaradat
Associate Professor of Commercial Law
Applied Science University, Bahrain

Abstract:

To standardize the objective rules of the international sales contract, many efforts have been made by international bodies to develop international trade agreement, and one of the results of these efforts was the emergence of the Vienna Convention of 1980. To avoid conflict of laws in the event of an international dispute as they do not fit the nature of these transactions and because they are often applied national laws, part of the authors went on to say that there is a crisis in the platform of conflict of laws. In order to refer to the efforts made to standardize the objective rules of the international sales contract, and then to indicate the scope of its international application, especially in the case of the company without legal status, so to speak, and in order to do so substantial amendments were proposed through the proposals and recommendations reached through this study and for this use of the analytical approach.

Keywords: Agreement, Contract, International Trade, Goods, Business Transactions, United Nations.

Introduction

Although it is difficult to standardize international trade law, some international organizations¹, whether governmental or

non-governmental², have taken great steps towards achieving this goal, working to standardize the rules governing international trade transactions with the aim of developing international trade, and protecting the parties to commercial transactions from the risks posed by the

¹Government organizations are the members of the governments of some countries, represented by their representatives, the most important of which are: the Vienna-based International Trade Law Commission, known as UNCITRAL. In addition to the International Institute for the Unification of Law on Rome known as UNIDROIT. It plays a major role in unifying the rules of international sale of goods, it is he who prepared the projects of the 1964 Lahi Agreements for the international sale of goods, considered In government organizations Dr. Ahmed Hani Mohammed Mr. Abu Al-Anin, examination and notification as a duty of the buyer in the United Nations Convention in Sah, contract for the international sale of goods, doctoral thesis submitted to the Faculty of Law at the University of Manufiya, 2005,p3, and published on the Internet file PDF On the following website:

[HTTP://WWW.CISG.LAW.PACE.EDU/CISGARA/BIC/MIDDLEEAST/AHANI.PDF](http://www.cisg.law.pace.edu/cisgara/bic/middleeast/ahani.pdf)

²For non-governmental organizations, i.e. private, consisting of members who do not represent certain governments but participate in them in their personal capacities, scientists, specialists and practitioners of international trade law, and the activity of these organizations globally is non-regional, the most important of which is the International Chamber of Commerce in Paris ICC Dr. Mohsen Shafiq, the 1964 Hague Conventions on the International Sale of Physical Transports (Study in International Trade Law), Section 1, Journal of Law and Economics, Issue III, Year 44, September 1974, p. 21, 36 and 41, look at the international sale of physical transports.

application of various national laws whose provisions are unknown, and efforts have tended to standardize the objective rules of international sales contracts for goods. After standardizing the substantive rules of the Convention, it defined the scope of its application. The International Institute for the Unification of Law on Rome³UNIDRONT worked to standardize the substantive rules of international sales contracts for goods, held the conference in The Hague from (1-10 November 1951)⁴ to review the draft unified law for international sale and lay the foundations on which the draft agreement is based, the Committee completed its work in 1956, submitted a report published with the project prepared by the Dutch government and sent the project attached to the report of the Commission to various countries and the International Chamber of Commerce, and The Institute prepared another draft agreement, on the composition of the international sales contract for goods during the period of the poll, and was sent to the governments of different countries to poll, and then held its last meeting in 1962 to

³INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW

⁴Work began in 1931 with the establishment of a special committee to develop a unified project for the international sale of goods, and after the completion of the draft proposal sent by the League of Nations in 1935 to the governments of different countries to explore the opinion, then amended the drafting of the project in the light of the observations received, but the work on the project was subsequently suspended as a result of the outbreak of World War II, and after the end of the letter it was found that the project was no longer valid to face the economic changes brought about by the World War Dr. Ahmed Hani Mohammed, Mr. Abu Al-Anin, former source, p. 5.

study the proposals and observations received, and made the necessary amendments in the light of the proposals received, and held another diplomatic conference in The Hague under the auspices of the Dutch government in April 1964 in which 28 countries participated to discuss legitimacy, the conference resulted in the conclusion of two international agreements in The Hague under the auspices of the Dutch government in April 1964. Are:⁵

* The Hague Convention on the formation of the international sales contract for goods⁶.

*The Hague Convention on the Common Law on the International Sale of Goods relating to the Effects of the International Sales Contract

The provisions of the conventions came into force in 1972⁷ after ratification by five mostly European countries and the first agreement is a unified law for the formation of the international sales contract for goods and legality a unified law of international sales. For the second, although he described it as related to the composition of the sales contract, it does not address all the pillars of the contract, but addresses the element of satisfaction incomplete and speaks of positive and acceptance and has not been subjected to defects of consent, perhaps due to the difficulty of unification in other

⁶CONVENTION RELATING TO A UNIFORM LAW ON THE FORMATION FOR INTERNATIONAL SALE OF GOODS (ULF)

⁷ CONVENTION RELATING TO A UNIFORM LAW ON THE INTERNATIONAL SALE OF GOODS (ULIS) CONVENTION RELATING TO A UNIFORM LAW ON THE INTERNATIONAL SALE OF GOODS (ULIS)

matters related to the composition of the contract such as the eligibility of contractors and the illegality of the shop and the reason, mistake, coercion and fraud, all of which vary from state to state depending on the varying ethical and social standards⁸.

Despite efforts to standardize the rules governing international sales contracts for goods that resulted in the conclusion of the 1964 Hague Conventions⁹, these efforts did not achieve the desired uniformity of the reluctance of the majority of countries to join them, mainly because the majority of countries did not participate in the preparation and drafting of the conventions, and only a specific number of countries participated mostly European countries, so it was believed by the majority of countries, especially developing and socialist countries, that the texts of the Hague conventions did not participate. Respect only the interests of Western countries¹⁰

⁸The United Kingdom, Belgium, West Germany, Italy, Holland, Gambia and San Marino have joined these two agreements, and the agreement has become valid in some of these countries since August 15, 1972 AD, and in Italy since August 23, 1972 AD, see Dr. Mahmoud Samir Al-Sharqawi, International Commercial Contracts, a special study of the contract for the international sale of goods, publisher Dar Al-Nahda Al-Arabiya, 32 Abdel-Khaleq Tharwat St., Cairo 1992, p. 52, which is published on the following website:

⁹ Dr. Ahmed Hani Mohammed Al Sayed Abu Al-Anin, former source p6

¹⁰In 1964, 28 countries participated in the Laai Conference, including 19 countries from Western Europe. Only 3 countries from Eastern Europe participated in the conference, namely Bulgaria, Hungary and Yugoslavia. One country from South America, which is Colombia, and one country from Asia, which is Japan, and one country from Africa is Egypt, see d. Hosam El-Din Abdel-Ghani Al-Saghir

The United Nations body has been widely active in establishing an effective regulation of the standardization of international trade law, and these efforts have resulted in the establishment of a new commission called the United Nations Commission on International Trade Law (UNCITRAL) and the United Nations General Assembly met, and on 7 December 1966 it adopted a resolution establishing this commission, known as the Australian Commission, which held its first meeting in 1968 to develop its action plan in the coming years, and selected it on several topics to study and work to unify Its provisions, and the international sale of goods issues the list of topics given by the Committee a special priority in its work, and the Committee surveyed governments in the plan to be followed in the case of the Hague Conventions 1964, does it keep them and only recommend joining them, or should a new convention be adopted by a diplomatic conference called by the United Nations, and the responses came in support of the work of a new convention¹¹

TheRefore, The Australian has established a working group of delegates (14) States, chaired by Mexican Professor Jorge Berrera

and the interpretation of the United Nations Convention on Contracts for the International Sale of Goods, Dar Al-Nahda Al-Arabiya 32 Abdel-Khalek Tharwat Street, Cairo 2001, p. 6, published on the following website:
<http://cisgw3.law.pace.edu/cisgarabic/middleeast/interpretation.htm>
United Nations Commission on International Trade Law

¹¹ Dr. Ahmed Hani Mohammed Al Sayed Abu Al-Anin, former source, p. 6

Graf, representing various political, economic and legal trends and doctrines, to prepare the texts of a new convention to replace the 1964 Hague Conventions, and the Working Group meetings lasted nine annual sessions in which they completed the preparation of two draft conventions. In 1976, the Working Group completed the draft convention to replace the 1964 Hague Convention on the International Sale of Goods (ULIS). In 1978, it completed the development of another draft agreement to replace the 1964 Hague Convention on the formation of the International Sales of Goods Contract (ULF),¹²

In 1978, the two projects were submitted to the Australian Committee and approved, but they decided to include them together in a single draft of an international convention¹³, and in the second part dealt with the composition of the contract, and in part three dealt with the rights and obligations of both the seller and the buyer. The project was then submitted to the United Nations General Assembly and approved and decided to hold a diplomatic conference for approval, and the diplomatic conference was held from March 10 to 11, 1980, and the countries that participated in this conference agreed to the convention The United Nations

¹²Dr. Ahmad Hani Muhammad al-Sayyid Abu al-Anin, previous source, pg. 6

¹³ This group did not start its work from a vacuum. Rather, it took the 1964 Hague Conventions as a basis for its work, in an attempt to establish a unified law that would be acceptable as much as possible to a large number of countries. See Mahmoud Samir Al-Sharqawi, the previous source, pg. 54

on international sales contracts for goods after some amendments to the project (Vienna Convention 1980)¹⁴, the Convention was submitted for signature by States at the closing session of the Conference on 11 April 1980 and remained open for signature at United Nations Headquarters in New York until 30 December 1981, and the Convention was introduced from January 1, 1988, the first day of the month after the 12 months after the filing of document 10 of the ratification, acceptance or recognition documents. Or join the Convention, in accordance with the provision of article (1/99) of it¹⁵. It was called the 1980 Vienna Convention on the International Sales of Goods contract, known as the Vienna Convention of 1980¹⁶, and the Vienna Convention of 1980 played a major role in the modern international trade area in view of the growth and multiplicity of international trade, and the standardization of the law became the key factor at the international level, and was prepared to meet the needs of international trade¹⁷.

¹⁴ Delegates representing (62) countries, (22) Western countries, (11) socialist countries, and (29) third world countries participated in the conference. seen d. Hossam El-Din Abdel-Ghani Al-Saghir, the previous source, pg. 6

¹⁵Same source, p8.

¹⁶The United Nation Convention on Contract For The International Sale of Goods (CISG)

¹⁷ Dr.. Ahmed Hani Mohamed El-Sayed Abu El-Enein, previous source, p. 8. The text of the agreement in Arabic can be viewed on the following website:<http://www.cisg.law.pace.edu/cisgarabic/midleast/text.htm>

In contrast to the 1964 Hague Conventions, which were co-developed by only a few States, which led to the reluctance of the majority of States to join them, a large number of States were involved in the preparation and drafting of the provisions of the United Nations Convention on International Sales contracts for goods, representing the various political, economic and legal doctrines prevailing in the world, which had the effect of accepting the Convention and joining it at a rapid pace.¹⁸

Scope of application of the Lina International Convention

The Vienna Convention on the International Sale of Goods has defined the scope of its international application in the event of a different status of the parties when in contracting States, applying to contracts for the sale of goods between parties whose workplaces are located in contracting States, and may have multiple business centres, and may not be absent.¹⁹

¹⁸ The same source. It must be said that any State that ratifies, accepts, approves or joins this Convention, and is a party to the Convention on the Common Law on the Formation of the International Sales contract for goods concluded in The Hague on 1 July 1964, the Common Law on the International Sale of Goods concluded in The Hague on 1 July 1964 or both, must withdraw, at the same time, from any of the Hague Convention on the Sale of 1964 or the Hague Convention. To form contracts for 1964 or both, as the circumstances may be, by notifying the Government of the Netherlands of the benefit. Consider article (3/99) of the Convention. The Hague Conventions therefore remain in force for countries that did not organize the Vienna Convention of 1980.

¹⁹ The term business centre is important in determining the scope of the application of the Convention and the English version contains the

The presence of the business center of the two parties in different countries

The international sale of goods in accordance with the Vienna Convention, as disclosed by article of the Convention, means contracts for the sale of goods between parties whose workplaces are located in different countries. With the seller and buyer's union of nationality, the transaction between them is an international contract, and neither does the civil and commercial status of them or their contract, as per article (3/1) of the Convention. Article (1) of the International Sales of Goods Convention stipulates that (the provisions of this Agreement apply to sales contracts for goods held between parties whose workplaces are located in different countries:²⁰

- (a) When they are contracting States; or
- (b) When the rules of private international law lead to the application of the law of a contracting State.

Article (2/1) of the Convention also stipulates that (it is not noted that the premises of the parties are located in different States if this is not found from the contract or any previous transactions between the parties, or from the information provided by the parties prior to or at the time of the contract), paragraph (3) of article (1)

expression "place of business"Translated into Arabic (workplace) and contained in the version French one word"Establishment"Translated into (Al-Mansah);

²⁰ In this sense, Dr. Mohammed Shukri Srour, Summary of the Provisions of the International Sales of Goods Contract in accordance with the Vienna Convention 1980, considers a research published in the Journal of Law issued by Kuwait University, Issue III, Year 18, September 1994, p. 119

stipulates that (the nationality of the parties, the civil or commercial status of the parties or the contract are not taken into account in determining the application of this Agreement).

This article sets out the general rules for determining whether this agreement applies to the contract for the sale of goods and its composition. Article (1/1) of the Convention sets the basic criterion, based on the contract for the sale of goods and its composition, namely that the premises of the parties are located in different States, and does not concern the law governing sales contracts or their composition if the premises of the parties are located in one State, these matters are usually regulated by the internal law of that State. The subparagraphs (1/1/Up) added additional criteria, and although the parties' workplaces may exist in different countries, this convention applies only in the following cases:

1. If the States where the parties' workplaces are located are contracting States;
2. If the rules of private international law lead to the application of the law of a contracting state²¹

This provision shows that it is not enough to apply the provisions of the Convention, simply because the allegiances of those whose workplaces are located in different

²¹ Consider the numbered document (97/5.A/CONF) This document was rewritten by the Middle East Center for International Trade Law after obtaining the approval of the Australian Committee p2, published on the following website: <http://www.cisg.law.pace.edu/cisgarabic/middleeast/draft>

states, but moreover, one of two things is required: either two states must be the workplaces of the contractors of the contracting States "i.e. who have signed or joined the Convention", or the rules of attribution in the special international law of the State in which the dispute has been raised will lead to the appointment of the law of a contracting State to apply to this dispute, applying the judge considering this dispute. The provisions of the Convention are the place of law appointed by the attribution rule, even if the workplace of one of the followers or even the place of work of each of them in a state or in non-contracted states²²

If, for example, an Iraqi whose place of business in Iraq was involved in a sale with a Saudi buyer based in Manila, and if the seller did not fulfil its obligations in this transaction, the buyer will bring the case before the Iraqi judiciary, then it is the Vienna Convention that will rule this dispute even assuming that Iraq, the Philippines and Saudi Arabia are non-contracting states "or bound by the Convention", because the provisions of the Convention explicitly apply to article 1/b. Which stipulated that the convention (when the rules of private international law lead to the application of the law of a contracting state), and the rules of private international law in Iraq "which are brought before its dispute courts" lead to the application of Egyptian law, considering that Egypt is the country where the transaction was concluded, and Egypt is one

²² Dr. Mohammed Shukri Srouf, former source, p. 120

of the contracting states, the party to the Convention, as article (1/25) of The Iraqi Civil Code No. (40) of 1951 stipulates that (contractual obligations apply to the law of the state where the common home of the contractors is located). So unite home. If they disagree, the law of the state in which the contract took place is in place. This is unless the contractors agree or the circumstances show that another law is to be applied)²³

If the two states where the parties' workplaces are contracting states apply, this agreement applies even if the rules of private international law of the judiciary usually lead to the application of third-country law²⁴, such as that of the state in which the contract was concluded, and can only be prevented if the case is brought in a third non-contracted state, and the rules of that state's own international law lead to the application of the law of the judiciary to the contract, i.e. its law, or the law of a fourth non-contracted state if The place of employment of one or both parties to the contract was in a non-contracting State, the Convention applies if the rules of private international law of the judiciary lead to the application of the law of a contracting State. Another application of this principle is that if the parties from two different States have been called the law of a legally contracted State of the contract, this agreement applies even if the parties do not mention the

²³ In that sense, the source looks at the same source.

²⁴Numbered document (97/5.A/CONF) for commenting on the draft agreement, previous source, p. 2

Convention specifically²⁵ and to clarify the criterion for the applicability of the Convention to paragraph (1) of article (1) the jurisprudence strikes the following examples:²⁶

1. The sale is between the buyer of his workplace in Cairo (Egypt is a contracting state) and the seller of his workplace in Rome (Italy is a contracting state) which applies here the Convention without regard to the provisions of private international law, i.e. if these rules require the implementation of another law, if the sale is concluded in Greece (a non-contracted state) and the case is held in Egypt (contracted), the agreement is applicable even though the rules of private international law require the application of another law, the law in question and here Greece.

2. The sale is concluded in Egypt (a contracting state) between a seller of his place of work and a Greek buyer whose work in Greece (uncontracted) is held in Egypt. What law applies under the rules of conflict in private international law? The answer is the contract law, but are the sales provisions of Egyptian law or the Vienna Convention? The answer is the Vienna Convention.

3. There is the place of work of the seller and the buyer in two non-contracted countries, the place of work of the seller in Greece and the buyer's place of work in

²⁵The same source, p. 3, although this is controversial in the provisions of the judiciary of the countries that adopted the convention as we will see

²⁶ Dr. Talib Hassan Musa, former source, p. 159, which is used in the examples mentioned as a facility instead of a workplace

Lebanon and the parties agree on the jurisdiction of the Egyptian judiciary and Egyptian law. What provisions does the Egyptian judge apply here? The convention applies.

4. The conclusion of the sale in Egypt and the parties agreed on the jurisdiction of the Cypriot courts and Cypriot law (Cyprus is not contracted) and the rule of cyprus dispute was to apply the law of concluding the contract and here is The Egyptian law, the Cypriot judge will apply the provisions of the Convention because Egypt is a contracting state.

One of the applications of the judiciary that applied the provisions of the Convention to the presence of the business center of the parties in contracting states is a decision of a Swiss court that states that "the complainant, an Italian furniture seller, sued the defendant, a Swiss buyer, demanding the purchase price. The question for the court to resolve was whether it had jurisdiction and whether the sales agreement applied. The court confirmed the applicability of the sales agreement, deciding that the workplace of both parties was in a different contracting state (M1/1/A of the sales agreement). The Court further ruled that the sales agreement applied independently and not as the local law of the State determined by the rules of choice of law in force in court. As a result, the Court decided that it had jurisdiction." "In 1989, a company based in Italy entered into a commercial cooperation contract with a natural person residing in France," the French Court of Appeal said. As such, this person has become the sole agent and

importer of sweets exported by the Italian company. A year later, the Italian company terminated the cooperation contract and therefore the dispute arose. The Court of Appeal declared that the commercial cooperation contract was on the one hand related to the sale and on the other to the issue of the agency, and that the United Nations Convention on Sales Contracts applied to the right-to-sell part because it had been concluded between a seller and a buyer based in Italy and France, two states parties to the United Nations Convention on Sales Contracts (M1/1/A of the Convention)." In another court decision, he said: "A French seller and a Spanish buyer have concluded several contracts for the sale of corn. All shipments were delivered but the buyer did not pay all the price. The seller sued the buyer in a French court to demand payment of the price and interest. At the first instance, the Grenoble Magistrate's Court sentenced the buyer, without applying the United Nations Convention on Sales Contracts, to pay all the price on the grounds that the seller had no interest. The buyer appealed the appeal against the French court's decision and requested a reduction in the price on the basis of an agreement arising from a meeting held by the parties after the conclusion of the contract. The Court of Appeal held that the United Nations Convention applied to this case, as it related to an international sales contract for a sales of a contract between contractors

residing in two States parties to the United Nations Convention....".²⁷²⁸²⁹

"The plaintiff, an Egyptian businessman and the defendant, a German company trading in used printing machines, entered into an oral contract to sell nine used printing machines shipped to Egypt," the Oberlandesgericht Celle court said in a decision. The parties agreed to send two shipments, the first of which included six machines and the other three. According to the contract, the plaintiff had to pay a large part of the price before sending the first shipment, and he did so. However, the first shipment included only three machines. After repeatedly demanding that the unseries be shipped, the plaintiff stated that he no longer needed three of the machines he had not yet received. The defendant replied: "We regret that we cannot send the machines we keep at your disposal . . . and with regard to the last three machines, the plaintiff has set a final two-week delivery period. The defendant did not deliver the machines within that period but, shortly thereafter, offered to ship them in exchange for payment in advance. The plaintiff refused

²⁷ Decision in Case No. 199, Switzerland: Cantonal Court of Valais June 29, 1994, posted on the following website: <http://www.cisg.law.pace.edu/cisgarabic/middleeast/abstract14.html>

²⁸ Decision in Case No. 151, France: Grenoble Court of Appeal (Commercial Chamber), April 26, 1995, posted on the following website: <http://www.cisg.law.pace.edu/cisgarabic/middleeast/abstract11.htm>

²⁹ Decision in Case No. 153, France: Grenoble Court of Appeal (Commercial Chamber), 29 March 1995, posted on the Internet on the following website: <http://www.cisg.law.pace.edu/cisgarabic/middleeast/abstract11.htm>

and announced that, seven weeks after an additional delivery deadline had been set, the contract for the unallocated machinery would be terminated. The plaintiff demanded compensation for his losses and the difference between the price of the machines delivered and the amount paid in advance was refunded. The Court found that the sales agreement applied since the premises of the parties were located in two different states parties to the sales agreement (m1/1/a of the sales agreement), and because the sales contract was concluded after the sale agreement entered into force for these two states (m2/100 of the sales agreement), from the application of the judiciary in which the rules of private international law led to the application of the Agreement, recall a decision of the³⁰Oberlandesgericht FrankfurtCourt "The court applied the UN Convention for Sale, considering that it constituted relevant Italian law pursuant to the special international law in force in Germany, and promised that the agreement constituted a sales contract in accordance with article (1/3) of the Convention."³¹ "In 1988, a German fashion retailer signed a contract with an Italian clothing maker to sell different costumes and then the buyer refused to pay the price, claiming that it had notified the seller within eight days after

³⁰ Decision in Case No. 136, Germany: 76/94 Higher Regional Court of Celle; 20 U May 24, 1995, posted on: <http://www.cisg.law.pace.edu/cisgarabic/middleeast/abstract10.htm>

³¹ Decision in Case No. 2 Germany 164/90 Frankfurt to. M.; HIS September 17, 1991, posted on: <http://www.cisg.law.pace.edu/cisgarabic/middleeast/abstract1.html>

delivery and 12 days after the delivery of the second batch, with the poor manufacture and inappropriateness of the goods, and on the basis of special international law in force in Germany, the Court applied the convention, considering that it constituted Italian law, which was in force at the time of the contract and the court decided The buyer lost the right to rely on the non-conformity of the goods to specifications because the notices, even if they were sent as claimed, did not accurately identify the defect of the goods." ³²

"In October 1993, the French seller concluded a contract to sell fashion show statues with an English buyer," the Paris Court of Appeal said. At the back of the invoice addressed to the buyer, the seller's general terms of sale were received, including a clause on the attribution of jurisdiction in favour of the Paris courts. The seller claimed to the buyer before the Commercial Court in Paris about the settlement of an invoice that had not been paid. The buyer pleaded not to be competent in favour of the High Court in London. The seller filed a cassation suit before the Paris Court of Appeal, which ruled in favour of the jurisdiction of the Paris Commercial Court on the case. In the case of such a case, the applicable law was French law, which in turn referred to the sales agreement... ". In another decision, it stated that "in the context of commercial relations requiring

³² Decision in Case No. 3, Germany: 3726/89 District court Munich I; 17 HKO July 3, 1989; posted on: <http://www.cisg.law.pace.edu/cisgarabic/middleast/abstract1.html>

the delivery of goods in stages, a Spanish businessman purchased construction materials from a French company. From January to June 1991, he therefore received certain materials in the main workplace of the French company. The buyer refused to pay for the materials, claiming that they were defective, and filed a complaint against him before the French Interim Court of Equity, which found that it lacked substantive and regional jurisdiction. On the basis of the provisions of article (1/5) of the European Community Convention on Jurisdiction and the Implementation of Civil and Commercial Matters, dated 27 September 1968, the Court of Appeal ruled that the French court was competent because it was the court of the place of performance of the buyer's obligation to pay.³³³⁴

The Court of Appeal ruled that the contractual relationship between the parties constituted an international sale of goods, applied the sales agreement as the competent French law, in accordance with French special international law, and applied article (1/57/a) of the sales agreement, deciding that the price of the goods should have been paid at the seller's place of work." In accordance with article (1) paragraph (2) of

³³ Decision in Case No. 223, France: Court of Appeal in Paris, 15 October 1997; published on: <http://www.cisg.law.pace.edu/cisgarabic/middleast/abstract19.htm>

³⁴ Decision in Case 25, France Courtyard Appeal grenoble, Chambre des Urgences June 16, 1993; posted on: <http://www.cisg.law.pace.edu/cisgarabic/middleast/abstract2.htm>

the Convention, the Convention does not apply "when this fact is not established - the fact that the premises of the parties are located in different states of the contract or from any transactions between the parties, or from the information they disclose at any time before or when the contract is concluded" such as the case in which the parties' workplaces appear to be in one State but one of the parties acts as an agent of an undisclosed foreign employer. In such a case, paragraph (2) states that a sale that appears to be made between two parties whose place of work is located in one state is not regulated by this Convention³⁵

The text of article (3/1) shows that it is not prohibited from counting the sale internationally between two persons of the same nationality as long as the international standard set by the Vienna Convention is available in the sales contract, and he argues that the exclusion of the officer of the nationality of contractors as a criterion for determining the international sale is due to the varying national laws in the area of nationality, which are feared to disturb the boundaries between the Common Law (The Hague Convention) and national laws³⁶.

- **Multi-business centers**

Article (10/a) of the Vienna Convention states: (If one party has more than one workplace, the workplace is intended to operate the place they expected before or at the time of the contract), which means that when a party to the sale has more of a place of work that is closely related to the contract and its implementation, taking into account the circumstances known to the parties or from a business centre, as if it were a multinational party with more than one A business center in more than one country, it is based on the status of the business closest to the contract or where it is implemented taking into account the conditions of the contract. Paragraph (a) sets a criterion for determining the relevant workplace, the workplace with which it is most relevant to the contract and its implementation, and the term and implementation of the contract refers to the commercial transaction as a whole, including factors relating to the positive and acceptance as well as the implementation of the contract, and there is no importance, with regard to this article, of the location of the main centre or the main workplace, unless that centre or workplace becomes associated with the business transaction in question so that the workplace it has is more closely related to the contract and its implementation, as stipulated in paragraph (a) However, in determining the place of work that is most relevant, it shall take into account the circumstances known to the parties or expected at any time before or when the contract is concluded, so when paragraph (a) refers to the implementation of the contract, it refers to the implementation

³⁵ Numbered document (5/97. A/CONF) For commenting on the draft convention, previous source, p. 3.

³⁶ Quoting Dr. Mahmoud Samir Al-Sharqawi, former source, p. 61.

that the parties expected at the time of the contract, if the seller is expected to execute the contract at his place of work in the State (x), the report of the existence of his place of work under paragraph (a) in the State (o) does not change if he decides yet to execute the contract at his place of work in the State (o). The contract should be executed at his place of work in the state (p. Factors that may be known to one of the parties at the time of the conclusion of the contract include the supervision of the conclusion of the contract by a major position located in another State, the foreign origin or final destination of the goods, and these factors are taken into account if they are unknown to the parties or are not expected at the time of the conclusion of the contract³⁷ .

- Lack of employment centres

Since article (1/3) of the Vienna Convention does not require the execution of its provisions that the parties to sell from projects to be commercial and that the sale itself is not required to be commercial, one of the parties to the international sales contract may not have a business centre, so article (10.b) stipulates that (if one of the parties does not have a place of work, his or her usual place of residence must be taken) and this provision is the same provision as the unified law of the Hague Convention in paragraph The second of article 1 of it, and we note that the Vienna Convention, like the

³⁷ - The source is the same, p. 16.

Hague Convention, has avoided the use of the term home because of the difference in the meaning of this term in various legal systems, the home in England, for example, means the territory in which the person resides permanently and if he leaves it temporarily, but in France it means the main status of the person's work i.e. a specific address in a particular city, and the home in Bahrain is The place where a person usually resides permanently or temporarily and the person may have more than one home, so the idea of a usual place of residence expressed in article (10.1) of the Vienna Convention corresponds to the idea of home in Iraqi law. Paragraph (b) addresses the situation in which one of the parties does not have a place of work, and most international contracts are concluded by businessmen with known workplaces, but sometimes a person without a fixed workplace concludes a contract to sell his goods for commercial purposes, not simply for personal, family or domestic use within the meaning of article (2.a) of this Convention, and the provision of paragraph (b) states that in this case, it is taken Where he lives.

After the completion of the scope of the application of the International Convention, it should be noted that the civil or commercial character of the parties or licking is not taken into account in determining the application of this Convention, as some legal systems vary the law on contracts for the sale of goods depending on whether the parties or (the contract) are civil or commercial in nature, and there is no such discrimination in other

legal systems, and to ensure that the scope of the provisions relating to the application in these The Agreement states that it applies only to sales contracts described as "commercial" or concluded between parties described as "commercial" under the law of a contracting State, paragraph (3) of article (1) stipulates that the civil or commercial nature of the parties or the contract is not taken into account. This text is one of the most important advantages of both the Common Law and the Vienna Convention, as there is no theory that in practice has raised great complexities such as business theory, as well as it is one of the theories that not all legal systems take, then systems do not know the distinction between civil law and commercial law and deduct all transactions for a single legal system such as England, Switzerland and Italy, and on the other hand the laws Some of them take a personal standard and apply commercial law to the activity of a business, others take an objective standard. Commercial law governs businesses regardless of whether they are from a business or non-trader, and the criterion of distinction between civil and businesses is controversial in commercial jurisprudence since commercial legislation does not specify this. The standard is usually therefore, and therefore international conventions expressly require that the trade of the parties to the sale or its subject matter not be relied on so that these differences do not fall within the scope of the application of the Convention.

Results and recommendations:

1. International organizations have consolidated the rules governing international business transactions with a view to developing inter-State business and protecting business transaction parties from the risks posed by the application of various national laws whose provisions are unknown, and efforts have tended to standardize the substantive rules of international sales contracts for goods, culminating in the development of an international convention governing the international sales contract, the Vienna Convention of 1980.

2. The purpose of the United Nations Convention on International Sales contracts for goods was to standardize the legal rules governing international sales, to adopt uniform rules governing international sales contracts for goods, and to take into account various social, economic and legal systems, as this would contribute to the removal of legal barriers in international trade and promote the development of international trade, and these uniform substantive rules apply in themselves to the international sales contract subject to them without reference to the rules of international trade. Special international law "conflict of laws".

3. In the light of the Convention's development of substantive rules applicable directly to international sales contracts, the scope of the application of the Convention had to be indicated, and the scope of its international application had to be indicated, as it applied to contracts for the sale of goods between parties whose workplaces were located in different States, when they

were contracting States; or when the rules of private international law led to the application of the law of a contracting State. If a party to the international sales contract has more than one business centre, it is based on the business centre that is closest to the contract and its implementation, taking into account the known circumstances or faced by the parties to the sale at any time before or at the conclusion of the contract, but if the parties do not have a business centre, the usual residence is used.

4. We have found that the Vienna Convention does not take into account the nationality of the parties or the civil or commercial status of the parties or the contract in determining the application of this Convention. They apply to contracts for the sale of goods between parties whose workplaces are located in different States, regardless of the nationality of the parties to the international sales contract and regardless of the civil or commercial status of the contract or the parties.

Sources:

First: Books:

1. Dr. Ahmed Abdelhamid Ashoush, Conflict of Laws (Comparative Study), University Youth Foundation, Alexandria, 1989.
2. Dr. Ahmed Abdul Karim Salameh, Rules of Necessary Application and Common Law Rules in Private International Law (Applied Analytical Study), Arab Renaissance House, Cairo, 1985.
3. Jerome Hobe, Lengthy Civil Law, Special Major Contracts, Translation by Mansour Al-Qadi, First Edition, University

Foundation for Studies, Publishing and Distribution, Beirut, Lebanon, 1423 Ah-2003.

4. Dr. Hussam al-Din Abdel Ghani Al-Saghir, Interpretation of the United Nations Convention on International Sales contracts for goods, Arab Renaissance House, 32 Abdul Khaleq Tharwat Street, Cairo, 2001.

<http://cisgw3.law.pace.edu/cisgarabic/middleeast/interpretation.htm>

5. Dr. Talib Hassan Musa, International Trade Law, First Edition, Culture Publishing and Distribution House, Amman, 2005. 6. Dr. Mahmoud Samir Al-Sharqawi, International Commercial Contracts, Special Study of the International Sales contract for goods, Publisher Dar Al Nahda Arab, 32 Abd al-Khaleq Tharwat, Cairo, 1992.

<http://cisgw3.law.pace.edu/cisgarabic/middleeast/sharkawy.htm>

7. Dr. Hisham Ali Sadiq, Law applicable to international trade contracts, Alexandria Knowledge Facility, 1995.

Second: Research:

1. Dr. Mohsen Shafiq, The Hague Conventions of 1964 on the International Sale of Physical Transports (Study in International Trade Law), Section 1, Journal of Law and Economics, Issue III, Year 44, September 1974.

2. Dr. Mohammed Shukri Srour, Summary of the Provisions of the International Sales of Goods Contract in accordance with the 1980 Lina Convention, research published in the Law Journal of Kuwait University, Issue III, Year 18, September 1994.

Third: Master's and Doctoral Letters:

1. Dr. Ahmed Hani Mohammed Al Sayed Abu Al-Anin, Examination and Notification as a Duty of the Buyer in the United Nations Convention on the International Sales of Goods Contract, PhD Thesis submitted to the Faculty of Law of the University of Manufiya, 2005. It is posted on the Internet in a PDF file on the following website:

<http://www.cisg.law.pace.edu/cisgarabic/middleast/AHani.pdf>

2. Dr. Tariq Abdullah Issa al-Mujahid, Conflict of Laws in International Trade Contracts, PhD Thesis presented to the Council of the Faculty of Law at Baghdad University, 2001.
3. Dr. Nagham Hanna Rauf, Seller's Commitment to Delivery in the International Sales contract for Goods in accordance with the 1980 Lina Convention, Comparative Analytical Study, Ph.D. Thesis submitted to the Faculty of Law at Mosul University, 2004.

Fourth: Laws:

1. Iraqi Civil Code (40) of 1951.

Fifth: Conventions and documents:

1. The text of the 1980 FINA Agreement in Arabic on the following website:
<http://www.cisg.law.pace.edu/cisgarabic/middleast/text.htm>
2. The document (A/CONF.97/5 prepared by the Australian General Secretariat on March 14, 1979) for commenting on the draft agreement, which was rewritten by the Middle East Center for International Trade Law after obtaining the approval of the Australian Commission.

<http://www.cisg.law.pace.edu/cisgarabic/middleast/draft/draft index.htm>

3. About The Australian Case Law based on the United Nations Convention on the International Sale of Goods in relation to Article (1) of the Convention (A/CN.9/SER). C/DIGEST/CISG/G/1) .

<http://daccess-ods.un.org/access.nsf/Get?Open&JN=V0454717>

4. The Australian Profile of Case Law based on the United Nations Convention on the International Sale of Goods in relation to Article (6) of the Convention (A/CN.9/SER). C/DIGEST/CISG/G/6) .

<http://daccess-ods.un.org/access.nsf/Get?Open&JN=V0454748>

Sixth: Resolutions:

The resolutions on which the research was based are published in the following locations:

<http://www.cisg.law.pace.edu/cisgarabic/middleast/abstract1.html>

<http://www.cisg.law.pace.edu/cisgarabic/middleast/abstract2.htm>

<http://www.cisg.law.pace.edu/cisgarabic/middleast/abstract4.htm>

<http://www.cisg.law.pace.edu/cisgarabic/middleast/abstract5.htm>

<http://www.cisg.law.pace.edu/cisgarabic/middleast/abstract6.html>

<http://www.cisg.law.pace.edu/cisgarabic/middleast/abstract7.html>

<http://www.cisg.law.pace.edu/cisgarabic/middleast/abstract8.html>

<http://www.cisg.law.pace.edu/cisgarabic/middleast/abstract9.htm>

<http://www.cisg.law.pace.edu/cisgarabic/middleast/abstract10.htm>

<http://www.cisg.law.pace.edu/cisgarabic/middleast/abstract11.htm>

<http://www.cisg.law.pace.edu/cisgarabic/middleast/abstract13.htm>

<http://www.cisg.law.pace.edu/cisgarabic/middleast/abstract14.html>

<http://www.cisg.law.pace.edu/cisgarabic/middleast/abstract15.htm>

<http://www.cisg.law.pace.edu/cisgarabic/middleast/abstract17.html>

<http://www.cisg.law.pace.edu/cisgarabic/middleast/abstract19.htm>

<http://www.cisg.law.pace.edu/cisgarabic/middleast/abstract20.html>

<http://www.cisg.at/17701g.htm>