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INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW

WORKING GROUP FOR THE PREPARATION OF
PRINCIPLES FOR INTERNATIONAL COMMERCIAL CONTRACTS

Chapter III

INTERPRETATION

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NOTE

This consultative document is circulated for comment only. It does not represent the final views of the Institute.

CHAPTER III

INTERPRETATION

Article 1 (Intention of Parties)

(1) A contract shall be interpreted according to the intention common to the parties.

(2) Statement made by and other conduct of a party shall be interpreted according to his intention where the other party knew or could not have been unaware what that intention was.

COMMENTS

a. Parties' common intention to prevail

Paragraph 1 of this article lays down the principle that in determining the meaning to be attached to the individual terms of a contract, preference should be given to the intention common to the parties. In consequence, a contract term may be given a meaning which differs from both the literal sense of the language used and the meaning which a reasonable person would attach to it, provided that such a different understanding was common to the parties at the time of the conclusion of the contract.

The practical importance of the principle should not be over-estimated. First of all because particularly in commercial transactions parties are not so likely to use language in a sense entirely different from that usually attached to it; secondly, because even if this were to be the case it would be extremely difficult, once a dispute arises, to prove that a particular meaning which one of the parties claims was their common intention, really was shared by the other party at the time of the conclusion of the contract. It should be noted, however, that in order to establish the existence of a common intention it may be sufficient for a party to prove that the other party could not have been unaware of what his intention was when he first used the expression which was eventually incorporated into the contract.

b. Interpretation of unilateral acts

Paragraph 2 deals with the interpretation of unilateral acts and, in conformity with the principle laid down in paragraph 1 with respect to the contract as a whole, states that also in the interpretation of these acts preference is to be given to the intention of the party performing them, provided that the other party "knew or could not have been unaware" of what that intention was.

In practice the main scope of application of this provision lies in the process of the formation of contracts where parties make statements and engage in conduct the precise legal meaning of which has to be established in order to determine whether or not a contract is ultimately concluded. But there are also unilateral acts after the conclusion of the contract which may give rise to problems of interpretation: for example, a notification of defects in the goods, notices of avoidance or of termination of the contract, etc.

Whether a statement made by one of the parties and accepted as it stands by the other party, thus leading to the conclusion of the contract, is interpreted in accordance with the principle laid down in paragraph 1 or with those laid down in paragraph 2, is of no practical importance: the relevance given to the actual intention of the parties will in both cases be the same.

Illustration 1

A force majeure-clause contained in a contract for the construction of a large industrial plant mentions "strike" as one of the exempting events. When a dispute with his employees at the site leads to a suspension of work, Contractor C invokes the above mentioned provision in order to exclude any liability on his part for the delay in the construction. Purchaser P objects that when entering into the contract both parties understood the term "strike" as referring only to nation-wide strikes. C in vain insists that the literal meaning of the term is comprehensive of any strike action: P succeeds in proving that in the course of the negotiations his lawyers repeatedly insisted on such a narrow interpretation of the force majeure-clause without encountering objections.

Illustration 2

Licensee A, who has concluded a licencing contract with Licensor B, after a year hears that B, despite a

provision in their contract granting A an exclusive licence, has concluded a similar contract with one of A's competitors. A's immediate reaction is to 'phone B and during that conversation he leaves no doubt that he intends to terminate the contract. For this purpose A later on sends B a formal letter in which he speaks of the "great mistake" he made in relying on B's professional correctness, and expresses his intention "to avoid" the contract. Notwithstanding the words actually used, A's statement is clearly not to be understood as a notice of avoidance of the contract for mistake since B "could not have been unaware" that A's intention was to give notice of termination of the contract for non-performance, and not to give notice of avoidance for mistake.

CROSS REFERENCES

Chapter III Arts. 2 and 3

Chapter IV Art. 3

NOTES

This article corresponds in substance to Art. 8(1) CISG.

LITERATURE

SCHLECHTRIEM, *Einheitliches UN-Kaufrecht*, Tübingen, 1981, pp. 25 et seq.

HONNOLD, *Uniform Law for International Sales*, Deventer/Netherlands, 1982; pp. 136 et seq.

ENDERLE IN/MASKOW/STARGARDT, *Kaufrechtskonvention der UNO (mit Verjährungskonvention) Kommentar*, Berlin, 1985, pp. 50 et seq.

FARNSWORTH in BIANCA/BONELLI, *Commentary on the International Sales Law - The 1980 Vienna Sales Convention*, Milan, 1987, pp. 95 et seq.

SCHLECHTRIEM in DOLLE, *Kommentar zum Einheitlichen Kaufrecht*, München, 1976, pp. 695 et seq.

ZWEIGERT/KOTZ, *Einführung in die Rechtsvergleichung auf dem Gebiete des Privatrechts*, 2., neubearb. Aufl., Tübingen, 1984, pp. 96 et seq.

FARNSWORTH, *Contracts*, Boston/Toronto, 1982, pp. 483 et seq.

MAYER-MALY in MÜNCHENER KOMMENTAR zum Bürgerlichen Gesetzbuch, Band 1 : Allgemeiner Teil, München, 1978, pp. 773 et seq.

SACCO, *Il contratto*, Turin, 1975, pp. 749 et seq. and 762 et seq.

STARK, *Droit civil, Obligations*, 2. Contrat et quasi-contrat, Régime général, 2 éd., Paris, 1986, pp. 52 et seq.

Article 2

(Understanding of reasonable persons)

(1) If the common intention of the parties cannot be established, the contract shall be interpreted according to the meaning which reasonable persons of the same kind as the parties would give to it in the same circumstances.

(2) If the intention of the party who made the statements or engaged in the conduct was not known to, nor should have been known to, the other party, such statements or conduct shall be interpreted according to the understanding that a reasonable person of the same kind as the other party would have had in the same circumstances.

COMMENTS

a. Recourse to the understanding of a reasonable person

For cases where the common intention of the parties cannot be established, paragraph 1 of this article provides that the contract shall be interpreted according to the understanding of a reasonable person. A corresponding rule is laid down in paragraph 2 with respect to unilateral acts. Such a supplementary criterion is necessary in order to avoid a party contesting the coming into existence of a contract simply because at the time of the conclusion of the contract he attached a meaning to the agreed contract terms which was different from that attached to it by the other party.

b. How to determine the "reasonable" meaning

By stating that reference is to be made to "the meaning which reasonable persons of the same kind as the parties would give [to the contract] in the same circumstances" the article makes it clear that the decisive test is not a general and abstract criterion of reasonableness, but rather the understanding which could reasonably be expected of persons of the same kind and in the same situation as the parties. Thus, a particular expression used by the parties may well be "reasonably" understood in different ways depending on the circumstances of the case; nor can it be excluded that in a given case the intention of only one of the parties will prevail because this would have been the understanding of a reasonable person.

Illustration 1

Libyan oil exporter A, when making an offer to sell a particular cargo on the Rotterdam spot-market, indicates the price in "dollars", without further specifications. Canadian oil importer B accepts the offer, but three days later, after a fall in the market price, claims that no valid contract was ever concluded between him and A, because of a misunderstanding due to the fact that while A intended the price to be paid in U.S. dollars, he himself was referring to Canadian dollars. A correctly objects that even if B was not aware of the meaning he attributed to the word "dollars", it was still to be interpreted as referring to U.S. dollars since any reasonable person in B's situation would have understood it in this way.

CROSS REFERENCES

Chapter III Arts. 1 and 3
Chapter IV Art. 3

NOTES

This article corresponds in substance to Art. 8(2) CISG.

LITERATURE

SCHLECHTRIEM, *Einheitliches UN-Kaufrecht*, pp. 25 et seq.
HONNOLD, *Uniform Law*, pp. 136 et seq.
ENDERLEIN/MASKOW/STARGARDT, *Kaufrechtskonvention*, pp. 50 et seq.
FARNSWORTH in BIANCA/BONELLI, *Commentary*, pp. 95 et seq.
SCHLECHTRIEM in DOLLE, *Einheitliches Kaufrecht*, pp. 695 et seq.
ZWEIGERT/KOTZ, *Einführung*, pp. 96 et seq.
FARNSWORTH, *Contracts*, pp. 497 et seq.
MAYER-MALY in MÜNCHENER KOMMENTAR, Band 1, pp. 773 et seq.
SACCO, *Il Contratto*, pp. 765 et seq.
STARK, *Contrat et quasi-contrat*, pp. 56 et seq.

Article 3

(Relevant circumstances)

In interpreting a contract or statements made by and other conduct of a party due consideration shall be given to all relevant circumstances, including any preliminary negotiations between

the parties, any practices which they have established between themselves, usages and any conduct of the parties subsequent to the conclusion of the contract.

COMMENTS

a. Extrinsic factors to be taken into account in interpretation

By stating that in the interpretation process due consideration shall be given to a number of extrinsic factors, such as the conduct of the parties both prior to and after the conclusion of the contract, courses of dealing and usages, this article makes it clear that the proper meaning to be attached to a particular contract term can be found only in conjunction with all the relevant circumstances of the case. The list of factors indicated in the article is not intended to be exhaustive: all the relevant circumstances should, however, be taken into account both in order to establish the existence of a common intention of the parties (cf. Art. 1), and in order to determine the understanding of reasonable persons if no such common intention exists (cf. Art. 2).

b. Limits for relevance of extrinsic factors

In principle there are no limits to the relevance which may be given to extrinsic factors in the interpretation of contract terms. In other words, a term which is normally understood in a particular way may be given a different meaning, provided that it follows from the preliminary negotiations between the parties, from their conduct subsequent to the conclusion of the contract, from courses of dealing, from usages etc., that this was the actual intention of both of the parties, or that this was the meaning which a reasonable person would have attached to the term in the same circumstances. It goes without saying, however, that the less vague or ambiguous a contract term is, the more difficult it will be to admit that in a particular case it may be given a meaning which differs from that normally attached to it.

c. The principles of good faith and fair dealing in the interpretation of contracts

All rules of interpretation laid down in this chapter represent, in one way or another, applications of the general rule laid down in Art. 3 of Chapter I, according to

which "The [...] interpretation [...] of a contract shall be in accordance with the principles of good faith and fair dealing in international trade". However, this is particularly true as regards the rule contained in the present article, since it follows directly from the principles of good faith and fair dealing that a contract or any statement made by a party is not to be interpreted in the abstract, i.e. according to a predetermined and rigid meaning, but rather by taking into account the particular significance which it assumes in the light of the circumstances of the case.

CROSS REFERENCES

Chapter I Arts. 3 and 4
Chapter III Arts. 1 and 2

NOTES

This article corresponds in substance to Art. 8(3) CISG.

LITERATURE

SCHLECHTRIEM, *Einheitliches UN-Kaufrecht*, pp. 25 et seq.
HONNOLD, *Uniform Law*, pp. 136 et seq.
ENDERLEIN/MASKOW/STARGARDT, *Kaufrechtskonvention*, pp. 50 et seq.
FARNSWORTH in BIANCA/BONELL, *Commentary*, pp. 95 et seq.
SCHLECHTRIEM in DOLLE, *Einheitliches Kaufrecht*, pp. 757 et seq.
ZWEIGERT/KÖTZ, *Einführung*, pp. 96 et seq.
BIANCA, *Il contratto*, pp. 397 et seq.
CHESHIRE FIFOOT & FURMSTON'S *Law of Contract*, pp. 117 et seq.
FARNSWORTH, *Contracts*, pp. 492 et seq., 501 et seq. and 507 et seq.
MAYER-MALY in *MÜNCHENER KOMMENTAR*, Band 1, pp. 773 et seq. and 977 et seq.
STARK, *Contrat et quasi-contrat*, pp. 56 et seq.

Article 4

(Interpretation of commercial terms)

Subject to the provisions of Articles 1, 2 and 3, the expressions, provisions or terms of the contract shall be interpreted according to the meaning usually given to them in the trade concerned.

COMMENTS

a. Use of typical commercial terms

Businesspersons in their contracts often employ expressions and terms commonly used within their respective trade sectors or throughout the business community. Since each of these expressions or terms has its own standardised meaning, the parties are, by using them, immediately able to understand each other, without each time having to specify the content of their agreement in detail. The terms may relate to diverse aspects of the transaction: of particular importance among those most commonly used in international trade are the terms concerning the mode of delivery, such as "C.I.F.", "F.O.B." or "ex ship", and the terms for payment, such as "documents against payment", "documents against acceptance", "letter of credit", etc.

b. Diverging interpretations of commercial terms

Normally, the precise meaning of the terms in question is determined in accordance with the relevant usages and practices of the respective trade sector or market place. Sometimes, however, it may even be fixed by national legislation or caselaw. As long as both parties belong to the same trade sector or usually operate on the same market place, or have their place of business within the same country, no particular problems will arise. Yet how should the conflicts be resolved which inevitably occur whenever the contracting parties belong to different trade sectors or countries, each of which attaches a different meaning to the term in question?

A first possible approach would be to determine the meaning to be given to the terms in question in each single case on the basis of a particular connecting factor, such as the place of conclusion of the contract, the place of performance, etc. However, since the problem is more one of interpretation than one of conflicts between rules of law, it seems preferable not to attempt to find a solution on the basis of a single, more or less rigid and formal criterion, but rather to follow a more flexible approach. This is precisely the intention of this article which, for the interpretation of the terms in question, generically refers to "the meaning usually given to them in the trade concerned", thus making the solution of the possible conflict between different local meanings dependent on the circumstances of the case.

c. Terms originating from a particular business community

While the reference to "the meaning usually given [...] in the trade concerned" normally permits a choice to be made among different criteria for the determination of the proper meaning of the terms in question (e.g. the place of the conclusion of the contract, the habitual residence of the parties, or the place of performance of the contractual obligations, depending on which of these different places has the greater weight in the general context of the single transaction), there are cases where preference should be given to a particular criterion. This is true in the first instance with respect to expressions and terms which, although they are by now commonly used throughout the world, originate from a particular business community. Well-known examples of this are some terms typical to the insurance or the shipping industries which were originally used among British insurers or shipowners, but which are now also adopted in other parts of the world. With respect to terms of this kind, it would seem appropriate to solve a possible conflict between different local meanings, not by choosing one or other of them, but rather by resorting to the meaning typically attached to them within their sphere of origin.

Illustration 1

Singapore shipowner A concludes a charter-party with Italian charterer B containing the usual "whether in berth or not" clause as far as the commencement of the lay-time of the ship after its reaching the port of destination is concerned. When subsequently a question of how to calculate the exact running of lay-time arises, the parties disagree on the proper interpretation of the clause, A invoking the rules and practices followed in this respect within the Singapore trade community, B those of the principal Italian ports. The conflict between the two interpretations should be solved by applying the meaning which the clause in question is given by the business community in which it originated, i.e. that of the British shipowners and charterers.

d. Terms with respect to which there exist model rules of interpretation

The other category of terms for which the adoption of a special criterion of interpretation seems justified is that of those terms with respect to which, in addition to the different rules and practices locally adopted, there exist uniform model rules of interpretation prepared by independent international or regional organisations. The

most important example is given by a number of delivery and payment terms with respect to which the International Chamber of Commerce periodically issues model definitions and rules, such as INCOTERMS and the Uniform Rules and Practices for Documentary Credits, the use of which it recommends to the international business community, and which, in fact, businesspersons all over the world more and more often include in their contracts. If parties to an international contract employ one of these terms without further specifying their precise legal and technical implications, for their interpretation it would appear to be appropriate to resort to the above-mentioned model definitions even in the absence of an express reference to them by the parties: although their content only to a certain extent reflects already existing usages, thanks to their world-wide acceptance and to the official blessing recently received from qualified bodies such as UNCITRAL, these instruments may well be considered to represent the internationally prevailing understanding of the terms.

Illustration 2

New York wheat dealer A receives an order from Italian importer B requesting a certain amount of wheat to be delivered "C.I.F.-Genoa". There are differences in the way in which the delivery term "C.I.F." is interpreted in New York and in Genoa, in the sense that while at this latter place the risk of the goods is borne by the seller until they effectively pass the ship's rail at the port of shipment, in New York the transfer of risk occurs already when they have been delivered to the carrier. Instead of solving the conflict by giving preference to one of the local meanings, it would seem preferable directly to resort to the definitions and rules as contained in INCOTERMS, unless there are clear indications that the parties intended to rely on one of the local meanings.

CROSS REFERENCES

Chapter I Art. 4

NOTES

The solutions provided by domestic laws to the problem of conflicting interpretations of commercial terms commonly used in international trade are to a large extent at variance as regards the choice of the connecting factor, some taking the place where the contract was concluded (cf. Art. 1159 of the French Civil Code; Art. 1368(1) of the Italian Civil Code), others that where the offer and

acceptance took place (e.g. Oberlandesgericht Hamburg 2 September 1974, in Monatsschrift für Deutsches Recht 1975, 845), others the place of business of the company providing the products or services (Art. 1368(2) of the Italian Civil Code) and yet others the place where the contractual obligations are to be performed (cf. § 1-205(5) of the Uniform Commercial Code). The more flexible approach adopted by the present article has as a precedent Art. 9(3) of ULIS.

LITERATURE

- SCHLECHTRIEM, Einheitliches UN-Kaufrecht, pp. 26 et seq.
HONNOLD, Uniform Law, pp. 144 et seq.
ENDERLEIN/MASKOW/STARGARDT, Kaufrechtskonvention, pp. 53 et seq.
BONELL in BIANCA/BONELL, Commentary pp. 103 et seq.
JUNGE in DOLLE, Einheitliches Kaufrecht, pp. 39 et seq.
ZWEIGERT/KOTZ, Einführung, pp. 96 et seq.
CHESHIRE FIFOOT & FURMSTON'S Law of Contract, pp. 118 and 126 et seq.
FARNSWORTH, Contracts, pp. 507 et seq.
MAYER-MALY in MÜNCHENER KOMMENTAR, Band 1, pp. 977 et seq.
SACCO, Il contratto, pp. 782 et seq.
STARK, Contrat et quasi-contrat, pp. 56 et seq.

Article 5

(Interpretation of ambiguous terms)

(1) In the event of ambiguity, the terms of the contract shall be interpreted in such a way as to give them effect rather than to deprive them of effect.

(2) In the event of ambiguity, expressions capable of having more than one meaning shall be interpreted in a manner appropriate to the nature of the particular contract.

(3) Contract terms proposed by one of the parties shall, in case of ambiguity, be interpreted in favour of the other party.

COMMENTS

a. Interpretation in favour of the terms having effect

When confronted with vague or ambiguous contract language a first rule of interpretation to be followed is that of

understanding the terms in question "in such a way as to give them effect rather than to deprive them of effect" (paragraph 1). This rule is based on the assumption that when drafting their contract parties may be expected to attribute a specific meaning to the language they use, and not to make use of words to no purpose. In consequence, in case of doubt the language of the parties should not be disregarded as meaningless or absurd, but should be considered to have some importance. And if more than one interpretation is possible, preference should be given to that which permits the term to be considered valid, instead of that which would lead to its invalidity.

Illustration 1

Commercial TV network A enters into an agreement with Film Distributor B for the periodical supply of a certain number of films to be transmitted on Sunday afternoons. According to the contract A is under an obligation to take three films each time out of those submitted by B, provided that all films submitted "have passed the admission test" of the competent censorship commission. Later on a dispute arises between A and B as to the precise meaning to be given to this provision of the contract, since B maintains that it only implies that the films have been released for circulation, even if only for adults, while A insists on the necessity of their being classified as admissible for everybody. A's interpretation is to be given preference, since B's interpretation would deprive the provision of any effect, given that on TV only those films that are admissible for everybody may be transmitted.

b. Purpose interpretation

A further rule of interpretation to be used in the event of vague or ambiguous contract terms is that of understanding them "in a manner appropriate to the nature of the particular contract" (paragraph 2). Here the assumption is that the parties are interested in using each single term of their agreement in a sense which permits the best achievement of the purposes they had in mind when concluding the contract. Obviously, it is not always easy to determine what, if any, these common purposes of the parties to a particular contract are, and this in itself requires the contract to be properly interpreted. However, once the existence of such a common purpose has been established, it may in turn be used to obtain a better understanding of the meaning of vague or ambiguous terms to be found in the contract.

Illustration 2

Company A enters into an agreement with Company B for the transfer of technology relating to the cultivation of a particular agricultural product. The contract provides that B should immediately inform A of "any new technical developments" of which he "may become aware in the course of the performance of the contract". When A accuses B of not having informed of a new technique developed by a research centre of his country and published in a scientific journal, B rightly objects that it is clearly more in accordance with the nature of their particular contract that his duty to inform only relates to those new experiences which he himself has made in applying the technology acquired from A.

c. "Contra proferentem" rule

The third rule of interpretation laid down in the present article is that of choosing among the various possible meanings that which is less favourable to the party who proposed the terms in question (paragraph 3). The reason is that each of the parties should bear the risk of possible uncertainties or misunderstandings deriving from vague or ambiguous words or expressions he proposes to the other when the contract is drafted. This is only too obvious in the case of the use of standard terms which one party submits to the other for acceptance; but also where the contract terms are individually negotiated it seems appropriate to interpret vague or ambiguous terms against the party who proposes them.

Illustration 3

Purchaser P enters into a contract with Seller S for the delivery and installation of machinery. The contract is concluded on the basis of S's standard terms containing, among others, a provision stating that "Nothing in this contract shall render Seller liable for any personal injuries suffered by Buyer, his servants and agents". Because of what was evidently a defect in the construction of the machinery, once it was put into operation it exploded and thereby caused serious injuries to two of B's employees. S should not be allowed to rely on the above-mentioned exemption clause contained in the contract, since its content, which is clearly ambiguous, is to be interpreted in a sense less favourable to him, with the result that it does not cover his possible liability in tort.

CROSS REFERENCES

Chapter II Art. 17

NOTES

There is no precedent for this article in any international instrument. The rules of interpretation therein laid down are, however, in conformity with the position taken by virtually all domestic laws: for provisions similar to those of the present article, see, among others, Arts. 1157, 1158 and 1162 of the French Civil Code; Arts. 1368, 1369 and 1370 of the Italian Civil Code; Arts. 63, 64, 68 and 69 of Book V of the draft Civil Code of Québec; § 6(2) of the 1976 Law on International Economic Contracts of the German Democratic Republic; § 915 of the Austrian Civil Code; Section 23(2) of the Czechoslovak International Trade Code; § 5 of the 1977 Standard Contracts Act of the Federal Republic of Germany; Art. 10(2) of the 1984 Spanish General Law on Consumer Protection and Art. 11(2) of the 1985 Portuguese Law N^o 446 on General Conditions. See also, Restatement, Second, Contracts, §§ 203 and 206.

LITERATURE

ZWEIGERT/KOTZ, Einführung, pp. 98 et seq.
BIANCA, Il contratto, pp. 390 et seq.
CHESHIRE FIFOOT & FURMSTON'S Law of Contract, pp. 157 et seq.
FARNSWORTH, Contracts, pp. 492 et seq. and 497 et seq.
KOTZ in MÜNCHENER KOMMENTAR, Band I, pp. 1426 et seq.
STARK, Contrat et quasi-contrat, pp. 56 et seq.

Article 6

(Reference to the contract as a whole)

Each term of a contract shall be interpreted by reference to all the other terms of the contract, and in determining the meaning of the terms of the contract, reference shall be made to the contract as a whole.

COMMENTS

a. Interpretation of individual terms in the context of the contract as a whole

Since the single contract terms are clearly not intended to operate in isolation but form part of one and the same contract, it goes without saying that also their interpretation has to be made by reference to the contract as a whole. In this way it is ensured not only that each single word or expression is given a meaning which takes into account the context in which it was used by the parties, but also that inconsistencies, if not even open conflicts, between the different parts of the contract are avoided to the greatest extent possible.

Illustration 1

A franchise agreement between Franchisor A and Franchisee B relating to a particular fast-food service contains a first clause stating that it is A's prerogative to advertise the trade mark and method in Country X in any way he may consider appropriate, and a second clause whereby B undertakes to take care of the image of the service in Country X, subject to A's approving the single advertisements. The two apparently inconsistent provisions have to be read together, and also in conjunction with the remaining part of the agreement, including the provision stating the general duty of the parties to perform their duties in a spirit of cooperation and with a view to maximise the mutual economic benefits.

b. In principle no hierarchy between contract terms

In principle there is no hierarchy between the individual contract terms, in the sense that their respective importance for the interpretation of the remaining part of the contract is the same irrespective of the order in which they appear. There are, however, exceptions to this rule. First, the declarations of intent which are possibly made in the preamble, though not being without relevance for the interpretation of the operative provisions of the contract, can by their very nature only be of limited use in the determination of the exact meaning of the latter. Secondly, it goes without saying that, in cases of conflict, provisions of a specific character prevail over provisions laying down more general rules. Finally, the parties themselves may expressly establish a hierarchy between the different provisions and/or parts of their contract. This is frequently the case in complex agreements composed of

different documents relating to the legal, economic and technical aspects of the transaction.

CROSS REFERENCES

Chapter I Art. 3

Chapter II Art. 18

NOTES

There is no precedent for this article in any international instrument. The rule of interpretation therein laid down is, however, generally accepted within domestic laws: for provisions similar to those of the present article, see, among others, Art. 1161 of the French Civil Code; Art. 1363 of the Italian Civil Code; Art. 65 of Book V of the draft Civil Code of Québec; § 6(3) of the 1976 Law on International Economic Contracts of the German Democratic Republic and Art. 10 of the 1985 Portuguese Law N° 446 on General Conditions. See also, Restatement, Second, Contracts, § 202(2).

LITERATURE

ZWEIGERT/KOTZ, Einführung, pp. 98 et seq.

BIANCA, Il contratto, pp. 402 et seq.

FARNSWORTH, Contracts, pp. 493 et seq.

MAYER-MALY in MÜNCHENER KOMMENTAR, Band 1, pp. 786 et seq.

STARK, Contrat et quasi-contrat, pp. 56 et seq.