



# Importance of Incoterms and CISG in International Commercial Contracts: A Comparative Study

<sup>1</sup> Jamshid Kazimi, <sup>2</sup>Dr. Harshita Thalwal

<sup>1</sup>Ph. D. Candidate, <sup>2</sup>Associate Professor

<sup>1</sup>University Institution of Legal Studies (UILS)

<sup>1</sup>Chandigarh University, Punjab, India

**Abstract:** Generally, each country has its trade law other than international trade law. Therefore, international trade is a process between at least two countries. This diversity requires common languages and unity of practice between different countries. The ICC (International Chamber of Commerce) has been working on standard trade terms since 1919. In 1936, the first edition of Incoterms was published and revised many times. Generally, Incoterms have been set up for delivery in the international sales contract. These are widely accepted and describe the condition of the parties (buyer and Seller). National law or international treaty governs contracts of sale, for instance, the Convention on Contracts for the international sale of Goods (CISG). Therefore, those who deal with international trade prefer to use global standard terms instead of one party's national law, which may be the verdict in favor of their citizen. Therefore, Incoterms are applicable both in international and national contracts. This paper examines the Importance of Incoterms and CISG in International Commercial Contracts.

**Index Terms:-** Importance, Incoterms, CISG, International trade, International commercial contracts

## I. INTRODUCTION

It is astounding to consider those efforts to harmonize and amplify international trade law norms have only recently gained momentum in the post-World War II era. Since these unified international trade regulations provide for nations and their citizens political and economic benefits, more recent efforts by global and intergovernmental organizations, such as UNCITRAL, UNIDROIT, ICC and The Hague Conference have evolved any documented formulation of uniform global trade rules (Moens and Gillies 1998). Contract law is the base and backbone of modern business (Kuchhal and Kichhal 2019). It deals with the rights and obligations of a mercantile person arising out of a mercantile transaction (Jain 2009). Traders and those who deal with international trade prefer to set up their contract provisions in a standard way. By standardizing the contract, they can easily calculate the cost and the risk. In addition, the possible dispute during the business transaction will be reduced. For this purpose, standard incoterm is envisaged to formulate legal contracts which affect specific trade or industries. The standardization of trade terms has taken place in the whole business irrespective of commodity trade and is designed to define the methods of delivery of the goods and the parties' obligation (UNCTAD 1999). UNCITRAL recognizes Incoterms as a universal standard for interpreting the terminology used in international trade. It offers generally accepted guidelines outlining definitions and performance requirements for the most popular trading terms (Lazar 2011).

This article regarding "Importance of Incoterms & CISG in International Commercial..." Section 1 provides an overview of the importance of Incoterms and CISG in international trade, followed by the objective and research methodology of the article. Section 4 discusses the structure and content of Incoterms 2020 alongside the historical background of Incoterms. Section 5 discusses the content and legal framework of CISG. Section 6 discusses the interaction between the Incoterms & CISG. Section 7 provides a comparative study of

the Legal Frameworks of Incoterms & CISG. Section 8 highlights the result and findings of the research paper and, at the end conclusion.

## II. OBJECTIVE

The objective of conducting a comparative study on the importance of Incoterms and CISG in international commercial contracts is to enhance the understanding and application of these frameworks in cross-border transactions. By comparing and contrasting Incoterms and CISG, the study aims to identify their respective strengths, weaknesses, and complementarities. It seeks to provide a comprehensive analysis of their doctrinal methodologies, principles, and practical implications, thereby equipping practitioners, businesses, and legal professionals with the necessary knowledge to navigate the complexities of international trade. The study also aims to foster harmonization and standardization in interpreting and implementing international commercial contracts, promoting clarity, efficiency, and fairness in global business transactions. Ultimately, this comparative study aims to contribute to the development of best practices and ensure the effective utilization of Incoterms and CISG, thereby facilitating smooth and successful international trade relationships.

## III. RESEARCH METHODOLOGY

The importance of Incoterms and CISG in international commercial contracts cannot be overstated. These two frameworks provide essential guidelines and regulations that govern the rights, obligations, and responsibilities of parties involved in cross-border transactions. The comparative study of Incoterms and CISG is crucial for understanding their doctrinal methodology, as it sheds light on the similarities and differences between these two frameworks. By examining their principles, definitions, and applicability, this study allows practitioners and scholars to navigate the complexities of international trade and ensure the smooth execution of contracts. Incoterms offer standardized rules for the allocation of costs, risks, and delivery obligations between buyers and sellers. In contrast, CISG establishes a uniform legal framework for forming, interpreting, and performing international sales contracts. By comprehensively analyzing the doctrinal aspects of Incoterms and CISG, stakeholders can make informed decisions, minimize disputes, and foster greater efficiency and fairness in international commerce.

## IV. STRUCTURE AND CONTENTS OF THE INCOTERMS 2020

The word "international commercial terms" is abbreviated as "Incoterms<sup>®</sup>". It bears the ICC trademark. The phrases FOB "Free on Board," and other acronyms with precise meanings use for the international sale of commodities around the globe (International chamber of commerce 2020). The "Incoterms" rules describe "standard terms" used in contracts for the sale of goods. They are crucial international business tools that help traders eschew misinterpretation by "clarifying the buyers' and sellers' costs, risks, and responsibilities". The norms were created by experts and practitioners who ICC brought together; because of this, they have gained worldwide acceptance. They have replaced other standards in establishing international business rules (Cook and Aliston 2012). Indeed, Incoterms have been used in international sale contracts published or revised by the ICC (Anon 2020b). The history of trade terms indicates the growth of international trade. This development is not just a legal issue; it has been associated with economic, political, and technological elements and changed the form of transportation toward modernized trading (Coetzee 2013). In this regard, the ICC has been committed to facilitating international trade (International chamber of commerce 2020). The history of incoterm goes back to the beginning of the International Chamber in 1919. A joint agreement was discovered when the chamber noticed the concern about FOB in the country and started searching for different interpretations. The first trade terms edition was published in 1936, which was subsequently revised in 1953, 1967, 1980, and 1990 and in 2000, two terms, FAS and DEQ, were modified for customs clearance obligations (ICC. 2010). By 2010, the revised Incoterms came into existence, and four Incoterms were eliminated, such as DAF, DES, DEQ, and DDU. In addition, two new terms DAT and DAP were added, and as a result, the number of Incoterms was reduced from 13 to 11 (International Chamber of Commerce 2011). In the autumn of 2019, the ICC introduced an updated version of trade terms under Incoterms 2020 (Piltz 2020). Generally, in methodical-dogmatic criteria, four main groups can be identified (Piltz 2020). Each trade term has been classified into E-category, F- category, C-category, and D-category (Schwenzer, Hachem, and Kee 2012).

Category	Classification of Incoterms	
E	Departure	
	EXW "Ex Works"	
F	Carriage Unpaid	
	1	FCA "Free Carrier"
	2	FAS "Free Alongside Ship"
	3	FOB "Free On Board"
C	Carriage Paid	
	1	CPT "Carriage Paid To"
	2	CIP "Carriage Insurance Paid TO"
	3	CFR "Cost And Freight"
	4	CIF "Cost, Insurance, and Freight"
D	Arrival	
	1	DAP "Delivered At Place"
	2	DPU "Delivered at Place Unloaded"
	3	DDP "Delivered Duty Paid"

Table 1: Describes the trade terms classification.

The mode of transportation is the primary factor in the classification of the Incoterms 2020; three elements can be used to categorize Incoterms, including "transportation, payment for the primary transport, and the transfer of transportation risks".

Classification of Incoterms 2020 based on the mode of transportation		
Mode of transport	Multimodal	EXW; FCA; CPT; CIP; DAP; DPU, and DDP
	Sea, land, waterway	FAS, FOB, CFR, and CIF
Mode of payment	Buyer "importer"	EXW, FCA, FAS, and FOB.
	Seller "exporter"	CPT, CFR, CIP, CIF, DAP, DPU, and DDP
Transfer of risk in transport	Country of origin	EXW, FCA, FAS, FOB, CPT, CFR, CIP, and CIP
	Country of destination	DAP, DPU, and DDP

Table 2: Describe the Classification of Incoterms 2020 based on the mode of transportation

## V. CONTENT AND LEGAL FRAMEWORK OF CISG

The CISG is the result of a long process that started in the 1920s and was initially guided by UNIDORIT and The Hague Conference for "private international law", then by the UNICITL (Huber, Peter, and Alastair Mullis 2007). CISG, also known as the "Vienna Convention", is an international convention that creates a standardized legal basis for trade between nations (UN 1980). The CISG is a legal framework governing goods' sales between parties in different countries. UNCITRAL adopted the CISG in 1980, and it has been ratified by over ninety nations worldwide. The CISG provides a uniform set of rules for the global sale of goods. It is designed to enhance the development of "international trade" by creating a standard framework for contracts and providing a common set of rules that can be applied in different legal systems. The CISG applies to contracts for the "sale of goods" between parties whose places of business are in several nations, provided those nations are signatories to the treaty. One of the key features of the CISG is that it is a "self-contained legal regime". This means it provides its own rules for forming, interpreting, and performing contracts to sell goods. It also provides rules for issues like buyer and Seller obligations, property transfer, the remedies available in case of a breach, and the termination of the contract. (CISG) is widely regarded as the best effort yet made to standardize a large body of international business law. By establishing uniform and up-to-date substantive norms about the rights and obligations of the parties to global sales contracts, the "self-executing treaty" hopes to lower obstacle to global business, particularly concerning the choice of law (Harry M. Flechtner 2023).

The legal framework of CISG and its main features are divided into the following four-part: The first part is devoted to the Application and General Provisions; the CISG controls contracts for global sales of goods between "private firms", excluding sales to consumers and sales of services, as well as sales of certain specified types of items. (United Nations Commission On International Trade Law n.d.). When the states are contracting states, the CISG applies to contracts for selling products between parties whose places of business are in separate states. Given the large number of contracting States, this is the most common route to CISG applicability. The CISG also applies where the parties are located in separate countries and conflict of law laws require the application of the law of a signatory State (United Nations 1980).

The second part deals with forming a contract under the “CISG”, which follows a set of rules and principles designed to facilitate international trade. Which applies to contracts for the sale of goods between parties from several nations that have ratified the treaty, provides a framework for the formation of contracts and governs various aspects of contract formation, including offer and acceptance, communications between the parties, and the timing of contract formation. The CISG contains 101 articles in total, from Article 14 to Article 24 deal with the formation of contracts. These articles deal with Offers, Acceptance of an Offer, and other aspects of Offer and Acceptance (Smridhi 2020).

The CISG adopts a principle-based approach to contract formation, focusing on the parties' objective intentions. According to Article 8, the formation of a contract requires an “offer and an acceptance”. The offer must declare the intention of the “Offeror” to be bound by the offer, and the “acceptance” must indicate the acceptance of the terms of the offer without modifications. Under the CISG, an offer becomes effective when it reaches the offeree. The CISG recognizes that an offer can be canceled unless it indicates otherwise, provided that the cancellation reaches the “offeree” before or at the same time as the offer.

Additionally, the CISG allows for the withdrawal of an offer if the withdrawal reaches the “Offeree” before or at the same time as the offer. Communication between the parties is crucial in the formation of a contract under the CISG. The CISG considers that an “acceptance” is successful when it reaches the “Offeror”. If the acceptance is sent by means of communication, such as mail, fax, or electronic communication, it becomes effective when the Offeror receives it. However, the CISG provides that an acceptance is successful upon dispatch if it is sent by means of instantaneous communication, such as telephone or telex.

Moreover, the CISG recognizes additional terms in an “acceptance” do not automatically prevent contract formation. Suppose the offer expressly limits acceptance to the terms of the offer. In case, any different terms included in the acceptance will be considered as proposals for modification of the contract. The contract is then formed unless the Offeror objects to these additional or different terms within a reasonable time. It is significant to note that the “CISG” does not need a specific form to form a contract. A contract can be formed orally or in writing, and it can be “implied” from the conduct of the parties. However, it is advisable for parties engaging in international trade to put their agreements in writing to avoid potential disputes and ensure clarity. Forming a contract under the CISG requires an offer and acceptance, with communication playing a vital role in the effectiveness of the offer and acceptance. The CISG's principles emphasize the parties' objective intentions and provide flexibility in the inclusion of additional or different terms. By following the rules and regulations outlined in the CISG, parties can effectively form contracts for the international sale of goods and foster smooth international trade relations.

The section 3th deals with the “parties' obligations” such as “delivering goods in conformity with the quantity and quality stipulated in the contract, as well as related documents, and transferring the property in the goods. The buyer's obligations include paying the price and delivering the goods”. In addition, this section provides general contract violation remedies rules. In a fundamental violation, the “offended party” may demand performance, seek damages, or cancel the contract. Extra rules govern the “transfer of risk, anticipatory breach of contract, damages, and exemption” from contract performance (United Nations Commission On International Trade Law n.d.). Eventually, while the CISG permit for contract form freedom, states may lodge a “declaration” demanding a written form (United Nations 1980).

## **VI. THE INTERACTION BETWEEN THE INCOTERMS AND CISG**

The interaction between Incoterms and the CISG is critical in international trade. Both Incoterms and the CISG are widely recognized frameworks that govern numerous elements of international economic transactions, yet, they serve diverse functions and complement one another in different ways.

It is crucial to note that "the scope of Incoterms is limited to matters relating to the rights and obligations of the parties to the contract of sale concerning delivery of the goods sold". Incoterms specify precise point in the supply chain at which the buyer assumes responsibility for transportation, customs, and other costs and the risk of product loss or damage (Gardner 2012). The ICC Incoterms are regarded as trade usages under the CISG and established usages and practices between the parties. Regarding “delivery, the passing of risk, and payment,” there is a significant interaction between the CISG & Incoterms. The use of Incoterms is just a partial deviation from the CISG. Thus, it does not completely replace its provisions regarding the passing of the risk. The Incoterms also don't cover contract formation, the buyer's financial duties, or, importantly, remedies for contract breaches (Pamboukis 2005).

Trade terminology related to commercial sectors or national laws may also have definitions that diverge from those in the ICC Incoterms. Therefore, picking the correct trade term is advised. Incoterms specify the “transfer of risk, responsibility, and costs between parties, such as who is responsible for insurance, transportation, customs clearance, and other logistical aspects of the transaction”. The current version of Incoterms is Incoterms 2020(International Trade Administration n.d.).

The CISG, on the other hand, is a convention that offers a consistent structure for international sales contracts. It outlines the procedures for contract formation, the duties of the buyer and Seller, the legal recourse in the event of a contract violation, and other crucial elements of cross-border transactions. Unless the parties specifically choose to reject its application, the CISG is applicable when the parties to a contract are from different states that have ratified the treaty (Pamboukis 2005). The CISG and Incoterms interact because they focus on different facets of international transactions. The CISG regulates the actual rights and responsibilities of the parties, whereas Incoterms primarily concentrate on the logistics and distribution components of the contract. They can be combined in a contract and are not mutually exclusive (Suraraksa and Amchang 2020).

Parties frequently add an Incoterm when creating an international sales contract to indicate when ownership of the products passes from the Seller to the buyer and risk and liability for the goods become the buyer's responsibility. The selected Incoterm will establish crucial elements like the delivery location, the party in charge of transportation and insurance, and the cost distribution. In deals involving international trade, these terms provide clarity and confidence (UN, HCCH, and UNIDROIT 2021).

The Incoterms leave gaps in terms of contractual responsibilities, remedies, and other legal considerations. The CISG, as a unified international sales law, covers such gaps. It defines the fundamental legal foundation for international sales contracts, including how contracts are formed, what each party owes to the other, and what happens in case of a breach or failure to perform. Without the parties agreeing on specific terms, the CISG offers a default set of applicable guidelines (UN et al. 2021). Parties can use both frameworks appropriately to create comprehensive and effective contracts that govern their international sales transactions.

## **VII. A COMPARATIVE STUDY OF THE LEGAL FRAMEWORKS OF INCOTERMS AND CISG**

### **7.1 Scope and Applicability of Incoterms and CISG**

While having implications for the majority of features of a commercial sales transaction, Incoterms were explicitly designed to be used in a contract of sale. But, because of their limited regulatory reach, Incoterms cannot serve as the contract's controlling substantive law. They provide clarification on a number of responsibilities of the Seller and Buyer, including those relating to the shipment of the goods, transfer of risk, cost allocation, acquisition of the necessary transportation and insurance documents, as well as other obligations incidental to the export and import of goods, such as consular and customs clearance procedures or packing and marking of the products (Coetzee 2013).

Incoterms govern the sole specific feature of the contract of sale, not those feature that apply to all contracts, like errors and other issues that affect their validness or the transference of "property, impossibility of performance, misrepresentation", seller obligations regarding the quality of the product, buyer obligations regarding payment, obstacles to implementation brought on by unpredicted and inevitable events, violation and remedies for breach of contract. These elements will still be governed by the terms of the contract or its applicable law. The Convention will handle such matters where the CISG is the appropriate legislation (Coetzee 2013).

### **7.2 Key Provisions and Principles in Incoterms and CISG**

The main areas for interplay between the Incoterms and CISG are the "delivery and the passing of the risk". The risk rules of CISG and Incoterms encompass various similarities that pave the way for interplay between both instruments. According to both instruments, risk means "any fortuitous loss or damage to the goods caused by neither an act nor an omission of any parties". In both cases, the non-performance risk is discussed apart from the price risk and is not subject to regulation. Both envision distinct arrangements for various transport scenarios based on the same fundamental contracting patterns, precisely the distinction between shipment & delivery contracts.

Additionally, these legal document establish a connection between the transfer of "physical control" of the goods or being put in a position to have control upon them and protect from injury and the transference of risk. Articles 67&69 of the CISG and the so called "new" Incoterms have much in common. The fundamental idea that risk transfers upon product delivery to a carrier appear to be taken from the updated Incoterms rules, "FCA, CPT, and CIP" by the Convention's drafters. For the risk to transfer to the buyer under either instrument, the products must first be identified in the contract. Furthermore, according to Incoterms 2010, "for purposes of the Incoterms rules, the carrier is the party with whom carriage is contracted". This concept is compatible with how "carrier" is understood in the CISG (Coetzee 2013).

## 7.3 Rights & Obligations of the Parties under CISG and Incoterms

### 7.3.1 Rights and Obligations of the Seller & Buyer under CISG

The CISG specifies the obligations and rights of the Seller in cross-border sales agreements. In international sales contracts, the CISG grants the Seller a number of rights, including:

- The right to receive the price for the goods<sup>1</sup>.
- The right to demand that the buyer accept the shipment of the goods<sup>2</sup>.
- The right to cure any lack of conformity in the goods<sup>3</sup>.
- the ability to pursue compensation for any harm brought on by the buyer's violation of the agreement<sup>4</sup>.

The CISG also imposes certain obligations on the Seller in international sales contracts, including:

- The obligation to deliver the goods and transfer the property in the goods to the buyer<sup>5</sup>.
- The obligation to ensure that the goods conform to the contract means that they must be of the quality and quantity specified in the contract<sup>6</sup>.
- The commitment to deliver the items within the deadline or at the time specified by the parties<sup>7</sup>.
- the duty to provide any paperwork related to the items that is required for the buyer to accept delivery of the goods<sup>8</sup>.
- The obligation to mitigate any damages suffered by the buyer as a result of the Seller's breach of contract<sup>9</sup>.

Under the condition that both countries are party to the Convention, the CISG governs international sales contracts and applies to agreements for the sale of commodities between parties whose locations of business are in different nations. The CISG provides several rights to the buyer in international sales contracts, including:

- The right to require the Seller to deliver the goods and transfer the property in the goods<sup>10</sup>.
- The right to inspect the goods within a reasonable time after delivery<sup>11</sup>.
- The right to reject non-conforming goods or accept them with a price reduction<sup>12</sup>.
- The right to require the Seller to remedy any lack of conformity in the goods<sup>13</sup>.
- The option to terminate the agreement if the Seller commits a serious offence<sup>14</sup>.
- The right to claim damages for any loss suffered as a result of the Seller's breach of contract<sup>15</sup>.

The CISG also imposes certain obligations on the buyer in international sales contracts, including:

- The obligation to pay the price for the goods<sup>16</sup>.
- The duty to accept delivery of goods in conformity with the contract<sup>17</sup>.
- The obligation to examine the goods within a reasonable time after delivery<sup>18</sup>.
- The obligation to give notice to the Seller of any lack of conformity in the goods within a reasonable time<sup>19</sup>.
- The obligation to mitigate any damages suffered due to the Seller's breach of contract<sup>20</sup>.

### 7.3.2 Rights and Obligations of the Seller & Buyer under Incoterms

Certainly! Here's a chart outlining the primary rights & obligations of the Seller and buyer under Incoterms 2020:

Incoterm	Seller's Obligations	Seller's Rights	Buyer's Obligations	Buyer's Rights
EXW	Prepare goods for pickup at the agreed place	Receive payment for goods	Collect goods from Seller's premises	Inspect goods
FCA	Deliver goods to the carrier at the agreed place.	//	Arrange for the main carriage.	Choose the carrier and route.
CPT	//	//	Arrange for the main carriage.	Choose the carrier and route.
CIP	Deliver goods to the carrier at the agreed place and provide insurance	Receive payment for goods and insurance	Arrange for the main carriage	Choose the carrier and route
DAP	Deliver goods to the agreed place of destination	Receive payment for goods	Arrange for import clearance, if applicable	Inspect goods
DPU	Deliver goods to the agreed place of destination.	//	Arrange for import clearance, if applicable.	Inspect goods
DDP	Deliver items to agreed-upon location and pay applicable duties/taxes	Receive payment for goods and duties/taxes	Inspect goods	Take delivery of goods
FAS	Deliver goods alongside the vessel at the agreed port	Receive payment for goods	Arrange for export clearance	Choose the vessel
FOB	Deliver goods on board the vessel at the agreed port	Receive payment for goods	//	Choose the vessel
CFR	//	Receive payment for goods	//	Choose the vessel
CIF	Deliver goods on board the vessel at the agreed port and provide insurance	Receive payment for goods and insurance	//	Choose the vessel
CPT	Deliver goods to the carrier at the agreed place	Receive payment for goods	Arrange for the main carriage	Choose the carrier and route
CIP	Deliver goods to the carrier at the agreed place and provide insurance	Receive payment for goods and insurance	Arrange for the main carriage	Choose the carrier and route

Table 4: provides a general overview of the rights and obligations under each Incoterm.

### 7.4 Impact of Incoterms on Contract Formation and Risk Allocation Compared to CISG

Incoterms and CISG are key frameworks that play significant roles in international trade. While both aim to provide contract formation and risk allocation guidelines, they have different scopes and implications. Incoterms are standardized regulations produced by the International Chamber of Commerce that outline the responsibilities of buyers and sellers in international transactions. (Jr and Iii 1997). They primarily focus on the division of costs, risks, and responsibilities between the parties involved. Incoterms specify the point at which the risk transfers from the Seller to the buyer and the respective obligations related to transportation, insurance, customs clearance, and delivery (Anon 2020b).

In contrast, CISG is an international treaty that provides a uniform legal framework for selling goods between parties from different countries. It sets out rules governing contract formation, the rights and obligations of the buyer & Seller, and remedies for violation of contract. CISG applies to contracts for the global sale of goods unless the parties expressly opt-out or their countries have made reservations (Dennis 2014). When

comparing the impact of Incoterms and CISG on contract formation and risk allocation, there are several key points to consider:

- **Scope:** Incoterms primarily focus on international trade's logistics and transportation aspects. They provide clear guidelines for determining the point at which risk transfers, the party responsible for transportation, and other related obligations (Suraraksa and Amchang 2020). CISG, on the other hand, has a broader scope and covers various aspects of contract formation, performance, and remedies (Saunders and Rymysza 2015).
- **Legal Framework:** Incoterms are not legally binding but widely recognized and accepted in international trade. They are typically incorporated into sales contracts to provide clarity and avoid disputes. CISG, on the other hand, is a treaty that many countries have ratified, and if applicable, it automatically becomes part of the sales contract unless the parties exclude its application (Jain 2017).
- **Risk Allocation:** Incoterms play a significant role in risk allocation by clearly defining when the risk passes from the Seller to the buyer. They help determine who is responsible for insuring the goods, arranging transportation, and covering potential losses or damages. CISG also addresses risk allocation but focuses more on issues such as the passing of ownership, conformity of goods, and remedies for breach of contract.
- **Flexibility:** Incoterms provide flexibility in structuring contracts by offering different options to suit specific trade scenarios. They offer a range of terms, such as "EXW, FOB, CIF", and others, allowing parties to choose the most appropriate term based on their needs. CISG provides a uniform framework but allows the parties to agree on additional or modified terms as long as they do not conflict with its core principles.

While both Incoterms and CISG impact contract formation and risk allocation in international trade, they serve different purposes. Incoterms focus on logistics and provide standardized rules for the division of responsibilities and risks between the parties (Bergami 2013). CISG, as a legal framework, has a broader scope, covering various aspects of contract formation, performance, and remedies. Understanding and correctly applying both frameworks can help parties establish clear contractual terms and mitigate risks in international trade transactions.

### 7.5 Dispute Resolution Mechanisms under Incoterms & CISG

Incoterms provide a standardized set of rules for international trade contracts, specifying the rights and duties of the buyer & Seller. While Incoterms primarily focus on matters related to the shipment of goods and the allocation of costs and risks, they also address dispute resolution. Incoterms do not provide a detailed dispute resolution mechanism per se, but they offer guidance on resolving disputes through negotiation and mediation (International Trade Administration n.d.). Incoterms recommend that parties attempt to settle their disputes amicably through negotiation. This approach encourages open communication and the voluntary resolution of conflicts. Moreover, Incoterms suggest the use of mediation as an alternative dispute resolution method.

CISG, on the other hand, is a treaty governing international sales contracts, providing rules for contract formation, obligations of the parties, and remedies for breach. CISG includes specific provisions for dispute resolution. According to CISG, parties are free to choose their preferred method of dispute resolution. They can opt for court litigation or alternative methods such as arbitration (Saiegh n.d.).

In court litigation, disputes are brought before the national courts of the relevant jurisdiction. CISG does not establish a specific international court for resolving disputes; instead, it relies on domestic courts to apply its provisions. The advantage of court litigation is that it provides a formal and authoritative decision backed by the jurisdiction's legal system. However, it can be time-consuming and costly, mainly when parties are located in different countries (Saiegh n.d.). Arbitration is another prominent dispute resolution mechanism under CISG. It allows parties to resolve disputes outside the court system through a private process. Arbitration offers flexibility in terms of selecting arbitrators, determining procedural rules, and choosing the applicable law. It also provides a more specialized and neutral forum for resolving international disputes. The decisions reached through arbitration are binding and enforceable under the New York Convention (Saiegh n.d.).



## VIII. RESULTS AND FINDINGS

The comparative study on the importance of Incoterms and CISG in international commercial contracts has revealed several key findings.

Firstly, both frameworks are crucial in facilitating and regulating cross-border transactions. Incoterms provide standardized rules for allocating costs, risks, and delivery obligations between buyers and sellers, ensuring clarity and predictability in global trade. On the other hand, CISG establishes a uniform legal framework for the formation, interpretation, and performance of international sales contracts, promoting harmonization and reducing legal uncertainties.

Secondly, the study has highlighted the complementary nature of Incoterms and CISG. While Incoterms focuses primarily on the logistics and responsibilities related to the physical delivery of goods, CISG addresses broader aspects of contract formation, rights, and remedies. By considering both frameworks in tandem, parties involved in international commercial contracts can achieve comprehensive coverage and ensure a balanced allocation of rights and obligations.

Furthermore, the study has emphasized the significance of understanding the doctrinal methodology of Incoterms and CISG. By delving into their principles, definitions, and applicability, stakeholders can make informed decisions, minimize disputes, and enhance the efficiency of international trade. The study underscores the importance of considering these frameworks during contract negotiations, drafting, and dispute resolution procedures.

Additionally, the findings indicate that the proper utilization of Incoterms and CISG can lead to increased efficiency, fairness, and cost-effectiveness in international commercial transactions. These frameworks provide a common language and rules that facilitate communication, reduce negotiation efforts and enhance contractual certainty. By adhering to the principles and guidelines outlined in Incoterms and CISG, parties can mitigate risks, protect their interests, and foster mutually beneficial trade relationships.

## IX. CONCLUSION

In conclusion, the comparative study underscores the importance of both Incoterms and CISG in international commercial contracts. These frameworks offer valuable tools for navigating the complexities of cross-border transactions, promoting clarity, predictability, and harmonization. Understanding their context, legal framework, and comparative strengths allows businesses and legal professionals to effectively leverage these frameworks and maximize the benefits of international trade.

CISG is a treaty that provides a uniform legal framework for forming, interpreting, and performing contracts for the sale of goods between parties from different countries. It applies to contracts for the sale of goods between parties whose location of business are in various states that have ratified the Convention. The Convention contains provisions on contract formation, obligations of the buyer and Seller, remedies for breach, and other issues related to global sales contracts.

On the other hand, Incoterms are a set of standardized commercial terms used in global trade to define the rights and obligations of buyers and sellers regarding delivery, insurance, customs clearance, and payment. The ICC publishes them and provides a common language for traders from different countries to use when negotiating contracts. While CISG and Incoterms deal with international sales contracts, their scope differs. CISG covers all aspects of a global sales contract, while Incoterms only cover specific delivery-related issues. Additionally, CISG is a treaty that over 90 countries have ratified, while Incoterms are not legally binding but can be incorporated into a contract by agreement between the parties.

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