

CISG Articles

- Article 49(1): The buyer may declare the contract avoided:
 - (a) if the failure by the seller to perform any of his obligations under the contract or this Convention amounts to a fundamental breach of contract; or
 - (b) in case of non-delivery, if the seller does not deliver the goods within the additional period of time fixed by the buyer in accordance with paragraph (1) of article 47 or declares that he will not deliver within the period so fixed.
- Article 25: A breach of contract committed by one of the parties is fundamental if it results in such detriment to the other party as substantially to deprive him of what he is entitled to expect under the contract, unless the party in breach did not foresee and a reasonable person of the same kind in the same circumstances would not have foreseen such a result.
- Article 48(1): Subject to article 49, the seller may, even after the date for delivery, remedy at his own expense any failure to perform his obligations, if he can do so without unreasonable delay and without causing the buyer unreasonable inconvenience or uncertainty of reimbursement by the seller of expenses advanced by the buyer. However, the buyer retains any right to claim damages as provided for in this Convention.

- **1.** When is a seller in fundamental breach of the sale contract in your jurisdiction? Would a seller in fundamental breach in your system be in fundamental breach under the CISG?
- **2.** In your system, is the test used for fundamental breach unitary or does it differ according to the type of sale contract you are dealing with?
- **3.** Under your system, does a seller in fundamental breach have a right to cure or rectify the breach?
- **4.** What particular procedural steps must a buyer go through before it can terminate a sale contract for the seller's fundamental breach?
- **5.** In your system, can a seller escape the consequences of fundamental breach by express contractual terms?