



**United Nations Commission
on International Trade Law****UNCITRAL Digest of case law on the United Nations
Convention on the International Sale of Goods****Article 63*

(1) The seller may fix an additional period of time of reasonable length for performance by the buyer of his obligations.

(2) Unless the seller has received notice from the buyer that he will not perform within the period so fixed, the seller may not, during that period, resort to any remedy for breach of contract. However, the seller is not deprived thereby of any right he may have to claim damages for delay in performance.

Usefulness of granting an additional period of time

1. In granting the seller the right to fix an additional period of time, article 63 is in fact giving him the same right as that granted to the buyer under article 47: the two provisions are conceived in the same fashion and worded in comparable terms. The principal purpose of article 63, as of article 47, is to clarify the situation that arises when the buyer does not perform its obligation to pay the price or take delivery of the goods in time: if the additional period of time elapses without result, the seller is entitled to declare the contract avoided even if the buyer has not been responsible for a fundamental breach of contract (article 64 (1) (b)). Article 63 is

* The present digest was prepared using the full text of the decisions cited in the Case Law on UNCITRAL Texts (CLOUT) abstracts and other citations listed in the footnotes. The abstracts are intended to serve only as summaries of the underlying decisions and may not reflect all the points made in the digest. Readers are advised to consult the full texts of the listed court and arbitral decisions rather than relying solely on the CLOUT abstracts.

especially useful in cases where it is doubtful whether the buyer's delay in performance constitutes a fundamental breach of contract.¹

2. The additional period of time has to be of reasonable length. Decisions about what a reasonable length is are rare.²

Illustrations of recourse to an additional period of time

3. In practice sellers tend to grant an additional period of time, thereby giving judges the opportunity to apply article 63. Illustrations in case law are connected with the grant of an additional period to pay the price,³ to secure the issuance of a letter of credit⁴ and to take delivery of the goods.⁵

¹ CLOUT case No. 243 [Cour d'appel, Grenoble, France, 4 February 1999].

² Corte di Appello di Milano, Italy, 11 December 1998, available on the Internet at <<http://www.cisg.law.pace.edu/cisg/wais/db/cases2/981211i3.html>>.

³ Oberster Gerichtshof, Austria, 28 April 2000, available on the Internet at <<http://www.cisg.law.pace.edu/cisg/wais/db/cases2/000428a3.html>>.

⁴ CLOUT case No. 261 [Bezirksgericht der Sanne, Switzerland, 20 February 1997]; CLOUT case No. 301 [Arbitration—International Chamber of Commerce No. 7585 1992]; Supreme Court of Queensland, Australia, 17 November 2000, available on the Internet at <<http://www.austlii.edu.au/au/cases/qld/QSC/2000/421.html>>. However, in this case the court did not attach any particular consequences to the additional period of time fixed by the buyer since it found that a fundamental breach of contract had occurred; in this context, compare the granting of an additional period of time for the opening of a letter of credit required under a distribution agreement, CLOUT case No. 187 [Federal District Court, Southern District of New York, United States, 23 July 1997].

⁵ CLOUT case No. 47 [Landgericht Aachen, Germany, 14 May 1993].