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The Preference Accorded to General Principles Under Article 7(2) CISG

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Abstract

Hong Kong has recently ratified the United Nations Convention on Contracts for the International Sale of Goods ("CISG"). While Article 7(2) of the CISG acknowledges the potential incompleteness of the convention in addressing all issues it aims to govern and emphasizes the preference for seeking general principles within the CISG before resorting to domestic private international law, the extent of this preference remains unclear. This article highlights that while some scholars argue for private international law as a last resort, it is erroneous to suggest that the general principles embodied in the convention also include those exclusively stem from other international conventions. Such an approach would disregard the inherent international nature and proportionality envisioned by Article 7(1) of the CISG.

Keywords: CISG; expansionist; external gap; General Principles; internal gap; restrained interpretation

I. How to understand article 7(2)

On 4 May 2022, the People's Republic of China declared the applicability of the International Sale of Goods (the "CISG") to Hong Kong.[1] It is considered as an enhancement of its status as an international trade centre as well as a centre for international legal and dispute resolution services in the Asia-Pacific region.[2]

[1] Faculty of Law, University of Basel, "China formally declares that the CISG shall apply to Hong Kong" (5 May 2022), online: CISG Online https://cisg-online.org/home/international-sales-law-news/china-formally-declares-that-the-cisg-shall-apply-to-hong-kong.

[2] Paul LAM, "Speech by SJ at the Effectively Resolving Disputes with Chinese Parties under the CISG Vis East Moot Affiliated Event by CIETAC Hong Kong Arbitration Center – The Adoption of the CISG and Its Impact on Resolving

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Similar to any written law, the CISG cannot address every situation. One reason is that the drafting of written laws is bound by the context of its time and therefore cannot anticipate every future circumstance. In this connection, to ensure its adaptability over time, Article 7(2) offers a gap-filling procedure through which the CISG can address matters that it intends to govern but are not explicitly resolved within its own provisions. It has been recently said that Article 7(2) CISG comes then in place requiring that these issues are "preferably" to be settled in conformity with the general principles on which the CISG is based.[3]

Part II of this article delves into the concept of incompleteness Article 7(2) contemplates. It can be seen that Article 7(2) only applies specifically when there is an "internal gap" within the CISG, meaning a situation that is intended to be governed by CISG but remains unresolved. It therefore does not extend to cases falling outside its scope, which are considered as "external gaps". Part III then explores the mandate imposed by Article 7(2), which requires adjudicators to attempt to resolve unsettled issues through the application of general principles before resorting to private international law ("PIL"). It also delves into the reasons favouring the preference for general principles. While it is undeniable that Article 7(2) establishes a preferred approach to general principles, the more challenging question lies in determining the *extent* of deference given to them. Part IV therefore presents two contrasting approaches – the expansive and the restrained approach – generally advocated by civil law and common law practitioners respectively. These approaches represent the two extremes in the level of proactivity in searching for general principles before turning to PIL. Part V then proceeds to explain why the restrained approach simply does not stand. That said, despite this article's preference for an expansive interpretation, it remains essential to recognize the limitations placed on the search for general principles as outlined in Article 7(2). Part VI therefore presents such a caveat. Part VII concludes.

II. CISG is necessarily incomplete

A. *External gaps versus internal gaps*

The CISG, as a codified body of law, inherently possesses elements of incompleteness. This indeterminacy may arise from the drafters' inability to anticipate certain issues or their failure to reach a consensus on how to resolve them.[4]

However, the sort of incompleteness contemplated under Article 7(2) refers to areas which CISG may not comprehensively resolve yet still intends to govern. It follows that one must appreciate the delineation between the "external gaps" and the "internal gaps". The former encompasses issues that fall beyond the purview of the CISG, necessitating the application of conflict of laws rules instead of Article 7(2). Examples include the validity of the contract and any effect on the property of the goods sold (Articles 4(a) and (b)). Meanwhile, when confronted with "internal gaps" – situations where the CISG is intended to govern, yet leaves unsettled – adjudicators are, as stipulated in Article 7(2), obliged to first consult the general principles of the CISG before resorting to PIL.

Disputes in Hong Kong (English only)" (31 March 2022), online: Department of Justice, Hong Kong https://www.doj.gov.hk/en/community_engagement/speeches/pdf/sj20220331e1.pdf.

[3] Au JANSSEN and N.G. AHUJA, "The Imperfect International Sales Law. Time for a New Go or Better Keeping the Status Quo?" (2019) 9 Maandblad voor Vermogensrecht 318 at 323.

[4] John E. MURRAY Jr, "An Essay on the Formation of Contracts and Related Matters under the United Nations Convention on Contracts for the International Sales of Goods" (1988) 8 Journal of Law and Commerce 11 at 19.

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B. Kinds of internal gaps

A matter is notably unsettled if there is a lack of provision addressing it. A prime example would be calculation of the right of interest. While CISG Article 78 provides a right to interest for any sum in arrears, no provision defines the rate at which the interest is to be calculated.

Van Alstine has also identified two more types of "internal gaps" which are "hidden".[5] In these cases, there are indeed provisions governing the relevant issues. Yet, what is unsettled is their application.

The first hidden internal gap arises when two provisions conflict regarding the same subject matter.[6] In other words, there are express provisions governing the issues, yet the CISG is silent on the understanding of these conflicting articles. For instance, Article 14(1) requires an offer to have an "implicitly" determinable price for validity. However, Article 55 outlines a standard for determining the price in a "validly concluded" contract without an express or implicit provision. In such cases, the principles of party autonomy and reasonableness empower a court to recognize it an enforceable contract, when it reasonably appears that the parties intended to establish binding obligations.[7]

Another instance is where the application of a rule can clash with broader principles of fairness and equity.[8] For example, Article 39(1) stipulates that a buyer must provide timely notice of a contractual breach, yet it gives no shape where the failure to give notice rests on seller's fault. To deal with the unsettled question of how equitable considerations might mitigate the strictness of the rule, a tribunal decision invoked the general principles of estoppel and "good faith", effectively preventing the seller from asserting the buyer's failure to serve notice.[9]

In short, the "internal gaps" contained in the CISG actually encompass instances more than mere absence of provision governing an issue, as in the case of calculation of interest. It also includes cases where there are conflicting articles, as well as where the application of an express article might contravene the broader principles of fairness and equity.

III. Article 7(2): Preference towards general principles

The inherent challenge of indeterminacy inevitably affects the adaptability of any convention in passage of time. Yet, because the issue nonetheless falls within the purview of the CISG, it becomes imperative to formulate a substantive rule to ensure the enduring relevance of CISG. This speaks to the necessity of Article 7(2). This Part (A) explains the preference accorded to the use of general principles as mandated under Article 7(2); and (B) reminds, however, of the possibility of turning to the PIL under Article 7(2).

A. Preference in using the general principles

Pursuant to Article 7(2), only if an internal gap cannot be filled in conformity with the CISG's general principles may PIL be resorted to. Accordingly, adjudicators are required to explore whether the unsettled areas can be resolved through analogy (utilizing explicit written

[5] Michael P. Van ALSTINE, "Dynamic Treaty Interpretation" (1998) 146 University of Pace Law Review 687 at 768.

[6] *Ibid*., at 769.

[7] Murray, *supra* note 4 at 17.

[8] Van Alstine, *supra* note 5 at 770.

[9] *Foil case I*, OLG Karlsruhe (F.R.G.), Decision of 25 June 1997, Case No 1 U 280/96.

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rules), or by relying on broader principles underlying the CISG.[10] This approach entails the identification of various unwritten "general principles" within the CISG framework, such as good faith, reasonableness, and, although subject to debate, estoppel.[11]

The rationale for prioritizing resolution through the general principles of the CISG is evident. The primary advantage is to prevent premature reliance on PIL and domestic laws.[12] The fundamental objective of a genuine international convention, as distinguished from a mere model law that serves as a guiding principle for domestic legislation, is to supersede national legal norms within its defined scope. In this sense, Article 7(2) of the CISG serves a dual purpose, encompassing both a restrictive and expansive impact.[13] It restricts the application of local legal concepts in interpreting specific provisions, ensuring uniformity. Simultaneously, it empowers tribunals to establish new rules based on broad principles rather than explicit textual provisions, fostering flexibility and adaptability.[14]

Meanwhile, Article 7(1) of the CISG emphasizes its international character and the importance of uniformity. Coupled with Article 7(2), they feature the animating spirit of the "interpretive paradigm" whereby the jurisprudence could be developed autonomously under CISG itself, independent of domestic legal influences.[15]

B. Application of the PIL/domestic law

That said, Article 7(2) never wholly excludes the application of national law. It is alive to the unavailability of general principles. General principles are therefore "preferred" but not absolute.

This represents a contrast with Article 17 of the 1964 Uniform Law on the International Sale of Goods ("ULIS"). Article 17 of ULIS mandates the use of general principles to fill gaps, with a wholesale prohibition against reference to domestic law.[16] However, this approach is deemed impractical as complete independence from domestic law is "hardly acceptable",[17] since "the absolute independence from domestic law that the ULIS had pursued is clearly unreachable".[18]

Thus, Article 7(2) of CISG combines general principles with recourse to relevant external provisions determined by the forum's PIL.[19] It therefore reflects a narrowing of ULIS Article 17, recognizing the absence of available general principles for unsettled issues. The potential need to consider external provisions, striking a balance between general principles and the practical limitations of complete independence from domestic law, is well-acknowledged.[20]

[10] Joseph LOOKOFSKY, "Walking the Article 7(2) Tightrope between CISG and Domestic Law" (2005) 25 Journal of Law and Commerce 87 at 89.

[11] *Ibid.*

[12] Gert BRANDER, "Admissibility of Analogy in gap-filling under the CISG" (1999), online: Pace Institute of International Commercial Law http://www.cisg.law.pace.edu/cisg/biblio/brandner.html#N_25.

[13] Phanesh KONERU, "The International Interpretation of the UN Convention on Contracts for the International Sale of Goods: An Approach Based on General Principles" (1997) 6 Minnesota Journal of Global Trade 105 at 116.

[14] *Ibid.*

[15] Van Alstine, *supra* note 5 at 733.

[16] See also Art. 2 of ULIS.

[17] Franco FERRARI, "General Principles and International Uniform Commercial Law Conventions: A Study of the 1980 Vienna Sales Conventions and the 1988 UNIDROIT Conventions on International Factoring and Leasing" (1998) 10 Pace International Law Review 157 at 164–5.

[18] *Ibid.*, at 165.

[19] *Ibid.*

[20] John HONNOLD and Harry FLECHTNER, *Honnold's Uniform Law for International Sales under the 1980 United Nations Convention* (The Hague: Kluwer Law International, 2021) at 183.

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Yet, it is also because of such introduced balance which sparks a debate on the appropriate approach to navigating between the search for general principles and the willingness to simply resort to PIL, which we shall now turn to. The question is never whether general principles should be preferred, but the *degree* of preference.

IV. An expansive or restrained search of general principles?

There are two contrasting perspectives regarding the degree of preference given to general principles over domestic national law, representing the (A) expansive approach and (B) restrained approach to searching for general principles.

A. Expansive approach

It has been said that the possibility to step back for PIL offered by Article 7(2) is by no means an easy way out from the difficult task of determining general principles of the CISG.[21] Recourse to domestic law is thus only an *ultima ratio*.[22] Van Alstine even comments that despite the theoretical possibility, the core policy of international uniformity will leave "little room" for this escape to PIL.[23] This is to give full force to this pre-emptive effect of the CISG against resorting to national law to promote uniformity. Implicit in this approach is thus a conception of a convention as an integrated and auto-sufficient system whose cohesion arises from a set of unifying principles.[24]

Note, however, that an active search for general principles may broaden the understanding of what can be considered as general principles, potentially extending their scope to include other international instruments such as the Principles of International Commercial Contracts ("PICC").

B. Restrained approach

On the contrary, proponents of a restrained approach identify three problems with the expansive approach, namely (i) the difficulty in searching for general principles; (ii) the difficulty in applying identified general principles; and (iii) the expansive approach is not warranted by the legislative intent of Article 7(2).

1. Difficulty in searching for general principles

First, proponents of a restrained approach are much more attentive to the challenges in identifying appropriate general principles. Professor Eörsi observes that Article 7 provides inadequate guidance for interpreting its provisions.[25] It does not offer a framework for the development of such a body of law against the diverse legal traditions, varying judicial authority, and conflicting social and economic systems underlying different legal systems.[26]

In fact, although civil lawyers are more accustomed to searching for general principles, as civil codes often provide an internal methodology for future legal expansion within their

[21] Pascal HACHEM, "Commentary to Article 7" in Ingeborg H. SCHWENZER and Ulrich G. SCHROETER, eds., *Commentary on the UN Convention on the International Sale of Goods (CISG)* (Oxford: Oxford University Press, 2022) at 157.

[22] *Ibid.*

[23] Van Alstine, *supra* note 5 at 729.

[24] Brander, *supra* note 12.

[25] Gyula EÖRSI, "General Provisions" in Nina M. GALSTON and Hans SMIT, eds., *International Sales: The United Nations Convention on Contracts for the International Sale of Goods* (New York: Bender, 1984) at 133.

[26] Arthur ROSETT, "Critical Reflections on the United Nations Convention on Contracts for the International Sale of Goods" (1984) 45 Ohio State Law Journal 265 at 299.

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scope,[27] achieving consistent expansion remains challenging. The task is considered "arduous" by civil lawyers because the CISG does not specify any principles beyond those outlined in Article 7: internationality, uniformity, and good faith.[28]

It follows that the notion of dynamic jurisprudence in the development of the law would actually be contrary to the goal of international uniformity. Encouraging reliance on undefined and fluid "general principles" would sanction a kind of interpretive "ad hocism", the very antithesis of uniformity in application.[29] As opined by Eörsi, the real danger to unification is that in the search for general principles, it is unlikely that the tribunals and parties would find the same general principles.[30]

2. *Difficulty in applying identified general principles*

In any event, even if a general principle can be located, the application of the general principles would be difficult and thus lead to inconsistent results. For example, in fact, divergent views exist among commentators regarding the presence of general principles in the CISG for addressing interest calculation. Certain tribunals and Koneru argue that the general principle of "full compensation" justifies applying a uniform rule based on the bank credit rate at the injured party's place of business.[31] However, critics contend that this blurs the clear distinction between interest and damages in the CISG.[32] This explains why there is still a tendency for domestic courts to apply domestic law to determine the rate of interest.[33]

3. *The expansive approach is not warranted by the legislative intent*

Lastly, some supporters of a restrained approach suggest that according to the legislative history of Article 7(2), it is nothing but a mere compromised approach.[34] It represents a hard-fought middle ground between the civil law and common law perspectives on gap-filling in the CISG. Civil law delegates, concerned about the circumvention of uniformity, feared that domestic courts would readily resort to national law to resolve issues within the purview of CISG. In contrast, common law delegates were skeptical of relying too heavily on elusive general principles for supplementation. Article 7(2) reflects this compromise, allowing for both methods of supplementation.[35] Yet, an expansive interpretation of Article 7(2) risks upsetting the delicate balance achieved by the CISG's delegates.[36]

V. The problems of the restrained approach

After considering the expansionist and restrained approaches, this article argues that the restrained approach simply does not stand. This is because (A) resorting to the PIL is equally

[27] Michael Joachim BONELL, "Interpretation of Convention" in Cesare M. BIANCA and Michael J. BONELL, eds., *Commentary on the International Sales Law: The 1980 Vienna Sales Convention* (Milan: Giuffrè, 1987) at 76.

[28] Ma del Pilar Perales VISCAILLAS, "Unidroit Principles of International Commercial Contracts: Sphere of Application and General Provisions" (1996) 13 Ariz Journal of International & Comparative Law 381 at 404.

[29] Eörsi, *supra* note 25.

[30] *Ibid.*

[31] *Arbitral Award of the ICC Court of Arbitration-Paris*, No. 7660/JK, 23 August 1994; *Arbitral Award of the Internationales Schiedsgericht der Bundeskammer der gewerblichen Wirtschaft-Wien*, No. SCH-4366, 15 June 1994); Koneru, *supra* note 13 at 123.

[32] Volker BEHR, "The Sales Convention in Europe: From Problems in Drafting to Problems in Practice" (1998) 17 Journal of Law & Commerce 263 at 296.

[33] Franco FERRARI, "Uniform Application and Interest Rates under the 1980 Vienna Sales Convention" (1995) 24 Georgia Journal of International & Comparative Law 467 at 476–7.

[34] Scott D. SLATER, "Overcome by Hardship: The Inapplicability of the UniDroit Principles" Hardship Provisions to CISG" (1998) 12 Florida Journal of International Law 231 at 248.

[35] *Ibid.*, at 234.

[36] *Ibid.*, at 248.

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uncertain; and (B) the expansive approach is actually in accordance with the legislative intent.

A. Resorting to the PIL is equally uncertain

To the extent that the difficulty in searching for general principles and applying them consistently may pose a challenge to uniformity, it is by no means a valid reason to abandon the prioritized approach of seeking general principles.

First, turning to domestic national law rules would also give rise to uncertainty. PIL rules are often unclear and lack uniformity, leading to doubts and disputes over the applicable law.[37] Moreover, resorting to domestic law would introduce foreign legal systems to one of the parties involved and would often be ill-suited to addressing the complexities of international trade.

Second, relying on diverse domestic law rules for gap-filling could never result in a uniform solution. Conversely, drawing upon the general principles of the CISG in international case law would foster the development of common answers to questions within the scope of the law. While it may require time and numerous cases to reach consistent decisions, if PIL is frequently referenced, there would never be a jurisprudence to achieve uniformity in the areas intended by the CISG.

Last, the perceived degree of uncertainty resulting from the search for general principles may be exaggerated. A careful examination of the interpretive framework provided by Article 7 of the CISG reveals certain procedural measures that mitigate this potential concern. On one hand, the "backward-looking" component of uniformity requires interpreters to give deference to previous decisions made by adjudicators from other countries on similar issues, aiming to bridge the formal independence of national courts.[38] On the other hand, there is a "forward-looking" aspect that calls for considering the likelihood of international acceptance when determining a particular interpretation.[39] This entails thorough justifications for interpretive decisions, including references to the drafting history of provisions when there is doubt regarding their intended meaning and scope. Moreover, promoting uniformity can be done by increased reliance on scholarly writings which serves as a means of building consensus on complex issues and is commonly employed in the development of civil codes.[40]

B. Expansive interpretation echoes with the legislative intent

Another inquiry is the legislative intent of Article 7(2). Undeniably, the utilization of general principles can be seen as a compromise. However, the content of the compromise stops at suggesting that general principles should be preferred, without indicating the *extent* of preference. In this regard, it simply does not provide any guidance on the level of preference that should be accorded to general principles over domestic national law. The fact that it is a compromise remains neither here nor there, and therefore sheds no light on determining the appropriate approach.

Rather, this article argues that it is evident that the drafters of the CISG intended an active search of the general principles.

First, the CISG does not provide specific rules for its own review or amendment through a qualified majority vote. As a result, any reform of the CISG would require the agreement

[37] Honnold and Flechtner, *supra* note 20 at 185.

[38] Van Alstine, *supra* note 5 at 787.

[39] *Ibid*., at 788.

[40] Robert S. SUMMERS and Michele TAFURRO, "Interpretation and Comparative Analysis" in D. Neil MACCORMICK and Robert S. SUMMERS, eds., *Interpreting Statutes* (London: Routledge, 1991) at 474.

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and negotiation of all ninety-seven Contracting States. In practice, it is highly unlikely that the Contracting States would deem it worthwhile to invest substantial political and economic resources into such a costly procedure.[41] Consequently, to safeguard the CISG from being constrained by time and to preserve its international character, giving full effect to Article 7(2) becomes necessary. This guarantees the adaptability of CISG without the need for extensive formal amendments.[42]

Second, Article 7(2) contemplates an active role for courts in seeking out and giving content to the substantive principles that will guide the future development of the law.[43] This is evident from the fact that not only are the "general principles" nowhere expressly identified, but even the principles whose existence may be more evident (e.g. "good faith" and "reasonableness") still have neither a predetermined nor an immutable content. Having afforded such an extensive latitude to interpret general principles to the adjudicators, the "general principles" methodology reflects an instance in which the adjudicators have been "given the power to develop substantive law".[44]

Third, any argument that the CISG does not intend to leave room for uncertainty resulting from an expansive interpretation is now weakened with the acknowledgement of courts as entities empowered to shape and establish legal norms. By purposefully refraining from offering an exhaustive definition of general principles and their specific applications within the CISG, the drafters inherently embrace the possibility of incidental uncertainty. This deliberate approach allows adjudicators the necessary flexibility to exercise their interpretive discretion and thereby enhances the adaptability of the CISG to changing circumstances and evolving trade practices. The intentional absence of strict guidelines fosters a dynamic framework that can respond effectively to emerging challenges and promote the overarching objectives of the CISG.

VI. Not to overstretch by invoking general principles in other conventions

With that being said, the expansive approach should not be an unlimited extension in a fashion that distorts the meaning or operation of the CISG. A clear example of what this article believes has been over-reaching in the process of filling gaps is invoking the general principles embodied in other instruments such as the PICC, as demonstrated below.

In Hof von Cassatie,[45] the Belgian court was tasked to decide on whether hardship was applicable under the CISG. Following a 70 percent increase in steel prices after the contract was concluded, the seller raised the issue of hardship, since Article 79 of the CISG on impediment did not apply when performance was still possible.[46] Surprisingly, the Supreme Court, in the absence of explicit provisions within the CISG, unilaterally transplanted the principles articulated in Article 6.2.1 of the PICC, whereby parties might engage in contract renegotiation in instances of hardship.

This extension is not justified by the text of Article 7(2), which directs the application of the CISG to examine general principles "which this Convention [CISG] is based", rather

[41] Eörsi, *supra* note 25 at 155.

[42] *Ibid.*

[43] Van Alstine, *supra* note 5 at 755.

[44] *Ibid.*

[45] *Scafom International BV v Lorraine Tubes S.A.S. (Netherlands v. France)*, Decision of 19 June 2009. Hof von Cassatie, Belgium. C.07.0289.N.

[46] Sarah Howard JENKINS, "Exemption for Nonperformance: UCC, CISG, UNIDROIT Principles – A Comparative Assessment" (1998) 72 Tulane Law Review 2015 at 2028.

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than seeking external general international law principles such as those found in PICC.[47] It is not an independent source of gap-filling.[48]

At most, usage of PICC is limited to corroborating solutions based on the general principles of the CISG. One example is determining the interest rate on overdue payments under the CISG. Article 7.4.9.1 of PICC provides a specific method for calculating the appropriate interest rate as "the average bank short-term lending rate to prime borrowers prevailing for the currency of payment at the place of payment". This rule can be utilized to give substance to the general principle of "full compensation" under the CISG when determining the appropriate interest rate on overdue sums.[49]

Unwarranted extension of the CISG through aggressive interpretation and gap-filling could well undermine the political foundations of the CISG, as Contracting States find themselves bound to rules beyond what they apparently agreed to. Thus, the attempt to increase uniform commercial rules by an unjustifiably expansive approach to interpreting and filling gaps in the CISG could, ironically, set back the project to advance uniform legal regimes in the commercial area.

VII. Conclusion

The CISG, as a codified body of law, inherently possesses elements of incompleteness. Article 7(2) therefore offers a gap-filling procedure, which mandates that any unsettled area should be preferably resolved through the general principles as opposed to the PIL. The underlying rationale behind is to restrict the application of local legal concepts in the use of CISG to ensure uniformity and autonomy.

While it is undeniable under Article 7(2) that a preference is accorded to the use of general principles, the more difficult question is the extent of its preference. This article proposes that the use of the general principles should be preferred as much as possible. Criticism regarding the difficulty and lack of consistent results in searching for general principles overlooks the same challenges present in searching for the appropriate PIL rules. Yet, at least by favouring the use of general principles, there is an opportunity to develop a jurisprudence specific to the CISG, which can lead to more consistent outcomes over time. Meanwhile, an active search for the general principles and taking PIL as the last resort also aligns with the legislative intent.

That said, the position advocated by the expansionist in preferring the use of general principles should not be unlimited, as the text of Article 7(2) suggests that the power is constrained by the general principles found within the convention itself. This explains why the general principles only contained in the PICC cannot be an independent source for gap-filling. Unwarranted extension of the CISG through aggressive interpretation and gap-filling could well undermine the political foundations of the CISG, as Contracting States find themselves bound to rules beyond what they apparently agreed to.

This note therefore proposes a middle-view: the use of general principles should be given precedence to the largest possible extent, provided that one appreciates the limit in only referring to the principles on which the CISG is based. Afterall, the gap-filling procedure

[47] Harry M. FLECHTNER, "The Exemption Provisions of the Sales Convention including Comments on 'Hardship' Doctrine and the 19 June 2009 Decision of the Belgian Cassation Court" (2011) Annals of the Faculty of Law in Belgrade (International ed) 84 at 90.

[48] Franco FERRARI, "General Principles and International Uniform Commercial Law Conventions: A Study of the 1980 Vienna Sales Convention and the 1988 Unidroit Conventions" (1997) 2 Uniform Law Review 451 at 460.

[49] Michael Joachim BONELL, "The UNIDROIT Principles of International Commercial Contracts and CISG: Alternatives or Complementary Instruments" (1996) 79 Pravny Obzor 271 at 284; Alejandro M. GARRO, "Gap Filling Role of the Unidroit Principles in International Sales Law: Some Comments on the Interplay Between the Principles and the CISG" (1994–5) 69 Tulane Law Review 1149 at 1156–7.

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under Article 7(2) must not disregard the "gaps" in using the general principles featured only in PICC but not CISG itself.

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