

The *Draft* Common European Sales Law

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Giuseppe Cattani



STUDIO LEGALE F. DE LUCA
ASSOCIAZIONE PROFESSIONALE

October 11, 2011 - The Commission proposes a new Regulation on a Common European Sales Law

- Main goal: to enhance growth and trade in the single market by:
 - (i) reducing the impact of cross-border transaction costs (including legal costs);
 - (ii) facilitating cross-border transactions in general and cross-border shopping for consumers.

The intention of the Commission is to ensure that the proposal is adopted in 2012 (20^o anniversary of the Single Market)

Legal Framework

Existing measures of harmonization:

- Rome I Regulation on the law applicable to contractual obligations
- Consumer Rights Directive 2011/83/EU
- Directive 2011/7/EU on late payment in commercial transactions
- E-Commerce Directive 2000/31/EC
- (UN) 1980 Vienna Convention on the International Sales of Goods



MAIN FEATURES

- Only **Optional regime** (alongside the national regime)
- **Scope: only cross-border sale contracts** (both **B2B/B2C**). At least one of the parties is a **SME (Small Medium Enterprise)** + supply of related services
- **EU Identical set of consumer protection rules**
- **Comprehensive set of rules** (entire "life-cycle" of a contract), dealing with **main problems** that may occur within cross-border transactions



Is the Regulation on Common European Sales Law going to be adopted?

- Doubtful
- Ordinary legislative procedure (consensus of both EU Parliament and Council of Ministers)
- Broad criticism by the Member States (Germany, UK, Austria, Belgium)
- At present unclear how many Member States will support the proposal in the Council of Ministers

Main issues:

- (i) Remaining uncertainty on possible different interpretations by the national Courts, also based on different procedural rules;
- (ii) Remaining language and geographical barriers;
- (iii) Extra costs resulting from its introduction
- (iv) legal basis (art. 114 TFEU)- possible violation of principle of subsidiarity and proportionality

**THANK YOU FOR YOUR
ATTENTION**

(I hope I have been fast enough!)