Book Review

Djakhongir Saidov (ed), *Research Handbook on International and Comparative Sale of Goods Law* (Cheltenham: Edward Elgar Publishing, 2019) 434 pp, ISBN: 978-1786436146

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Djakhongir Saidov's book on International and Comparative Sale of Goods Law is, indeed, both a handbook and an outstanding research work. Saidov has accomplished the task of combining enriching contributions from high-profile academics and practitioners to provide a sound understanding of key aspects of the law governing the cross-border sale of goods and address the complex question he has identified (as explained below). At the same time, the handbook, as research work, offers stimulating lines of thought to those readers with a deeper background in the topic. It must be noted, however, that the book adopts a rather theoretical approach aimed at solving a central conundrum; it is not a treatise that exhaustively explores all the technicalities of international sale of goods law.

The context of the handbook is the challenging question of whether (and how) the sale of goods law has kept pace with the frenetic expansion of cross-border trade and tackled numerous new challenges that has come with it, in order to provide reliability to the international interdependence of market players. In short: fierce global competition has forced each market player to greater specialization in a few activities only, thus becoming more dependent on efficient exchange with counterparties all over the world to obtain the rest.[1] The contract for the sale of goods is the legal vehicle that accommodates a significant part of this exchange at an international level.

In particular, the handbook's research question focuses on how the current paradigm of global trade has shaped, and also disrupted to some extent, the nature and complexity of the governance of contracts for the sale of goods.[2] For example, standardisation of contracts, which directly impacts on a reduction of transaction costs providing for more efficient exchange, has enormous legal con-

1 For a greater analysis of the economic rationales see B. Arruñada, *Contractual Theory of the Firm* (Madrid: Marcial Pons, 1998).

2 See the introductory chapter 'Introduction: unity and diversity in the law of sale of goods', 2 and 24.

sequences on the governance of contracts for the cross-border sale of goods. Saidov groups these challenges into two categories: **source** and **context**:

- **Source-** challenges take account of the diversity of legal sources that has been developed by private parties themselves[3] to govern the cross-border sale of goods and how these sources interact with the institutional (i.e. formal) sale of goods law. This includes industry-specific sources like trade usages (TU), standard forms, and trade terms (the salient example being INCOTERMS®) to name a few. The core question addressed in the handbook is whether a multiplicity (so-called diversity) of sources inevitably leads to disruption of the governance of the contract for the international sale of goods, or, in contrast, to what extent unity of sources and standarisation is desirable. The CISG (1980) speaks for the latter. Lisa Spagnolo's contribution is interesting because it avoids a binary answer but boils down the debate to terms of efficient use of default rules.[4] Clayton Gillette does so for commercial standard forms.[5]
- **Context**- challenges invite reflection on the heterogeneous scenarios and markets where international sale of goods is conducted today and the particular needs that they may impose on contracts for the sale of goods. As covered in the handbook, this mainly comprises transnational long-term supply-chains (as to the scenarios) and two idiosyncratic energy markets (gas and electricity). The narrower research question is therefore what degree of responsiveness and flexibility the default rules governing the international sale of goods should have in the continuum between a disintegration of sales laws vs a 'one-size-fits-all' solution.

Assuming that there is no possible 'all-or-nothing answer' to either the **source-** or the **context**- challenges, the work intelligently addresses the core question by delimitating its contours. This corresponds with the five parts of the book concerning the purpose of modern sales law (part I); four selected issues of substantive sales law that mostly take account of the market characteristics in a digital era (part II); the impact of standard forms and trade terms to standardise the contracts for the sale of goods (part III); the complications attached to long-term relationships and a cross-border context (part IV); and the relevance of other sectors and areas of law such as dispute resolution (here arbitration), insolvency and trade finance (part V). Notably, it is precisely this approach that permits in-depth dis-

3 See Michael Bridge's chapter 'CIF and FOB contracts in English law: current issues and problems', 214.

4 Chapter 'Unification, disintegration or optimization: purposes of modern sales law', 27–58.

5 Chapter 'Are commercial standard form sales contract efficient?', 181–212.

cussions on the particular topics selected, which may better satisfy the curiosity of those already acquainted with them, while being useful to build basic notions and understand the central question.

As to the methodology, the handbook applies a comparative approach. The need to take a transnational view follows from the subject-matter itself. In my opinion, however, this is achieved to a limited extent, since some contributions deal with English law exclusively[6] and the sources and case law from the UK and US significantly exceeds all other countries or jurisdictions together. As a side note related to the case law, the formatting of a few references to decisions could be further homogenized.[7] The number of contributors from the Common law tradition, in particular from English law, largely outweighs those rooted in Civil law countries (= they represent a 12.5 % only).

While the above could somehow contradict the comparative approach suggested, it is not necessarily a drawback of the work. No practitioner or academic can seriously neglect the importance of English contract law (here, English sale of goods law) to govern private transactions in international trade and cross-border supply chains. Furthermore, the UK and in particular the City of London both play a crucial role in international trade. Thus, so to speak, there might still be no better benchmark for a handbook on international sale of goods law than English law.

However, some voices suggest that Brexit might change this swiftly. Whilst 2020 will tell about Brexit's far-reaching legal and economic consequences,[8] the handbook is inevitably victim of its timing. At the gates of a political change without precedent in EU's history, some **source-** and **context-** challenges identified by Saidov (and on which the handbook is based) may vary in the near future. This relates to customs duties, import restrictions, avoidance of price dumping, and compliance with EU-standards, to name a few economic issues relevant for future international and English sale of goods law. In that case, the book should be considered a work in progress and we will look forward to finding many answers in the second edition of the Research Handbook on International and Comparative Sale of Goods Law.

Frankfurt am Main, on 30 January 2020.

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6 For instance, see the introduction of Richard Aiken's contribution 'The impact of arbitration on the development of international sales law', 367: 'Being by training and experience an English lawyer, I am going to concentrate on English arbitration and its impact on international sales law.'; or Michael's Bridge chapter referred to above (fn 3).

7 As regards German case law, for example, *Oberlandesgericht* is abbreviated in *OLG* on some occasions only, while translated as Court of Appeal on others. See Tables of Cases, xii.

8 Brexit being effective as of 31 Januar 2020, the UK and EU may strive for a negotiated solution during the 'transitional phase' until 31 December 2020.