

## RATIFYING THE CISG: ESTABLISHING DEFAULT RULES AS LEGAL CERTAINTY FOR INTERNATIONAL SALES CONTRACT

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### Abstract

International sales contracts are agreement that govern the cross-border sales of goods. Given the complexities inherent in such transactions, the United Nations on Contract for the International Sales of Goods (CISG) serves as a preventive measure to reduce misinterpretation and legal dispute between the contracting parties. However, the CISG's applicability as a default rule remains limited due to not being ratified by certain states. The objective of this research is to analyze how the CISG act as a default rule to fulfill the legal certainty of contracting, and analyze the foreseeing challenges of ratifying the CISG in Indonesia. The research type is normative with statutory approach. The concept of default rules offers a convenient legal framework for the international sales contract that is in the absence of law. This theoretical framework was then adopted by the CISG, which instigates the phenomenon of the sticky default rules, reduce transaction cost with a complete set of interpretation and gap-filling mechanism, and ensure the legal certainty of the contracting parties. However, the ratification of the CISG may face several challenges such as the compability of the domestic law, potential conflicts of domestic interest, and high cost of legislating. Despite these challenges, ratifying the CISG in Indonesia remains feasible and beneficial for the development of international contract law.

**Keywords:** CISG, Ratification, Default Rules, Legal Certainty, International Sales Contract

## INTRODUCTION

International sales contracts are agreements that regulate the cross-border sales of goods between parties from different countries (Berlingher, 2017). These contracts are crucial in promoting international trade by providing consumers with access to a wide range of goods and enabling businesses to expand into global markets (Cafaggi, 2019). However, the complexities of cross-border transactions present unique challenges, including the disparities in language, customs, legal systems, and commercial norms, all of which can lead to misunderstandings and disputes. Thus, it is very pivotal to establish clear and enforceable terms in international sales contracts to minimize the risks and to ensure legal certainty for both parties involved (Jaradt, 2016).

One of the most critical aspects of international sales contracts is determining the applicable law or "choice of law." In international business contracts, the choice of law establishes the governing rules and interpretation of contractual provisions, thereby reducing potential conflicts and uncertainties in international transactions (Sopamena, 2022). Additionally, the concept of choice of law should support party autonomy, allowing parties to negotiate freely without being bound by specific private international laws. Nonetheless, questions may arise regarding which jurisdiction's laws should govern the contract due to the different legal backgrounds of the contracting parties (Dagan & Peari, 2023). This underscores the need for uniformity in international contract law, which has driven the development of various international conventions aimed at harmonizing contract laws, including the United Nations Convention on Contracts for the International Sale of Goods ("CISG").

The CISG was adopted as one of the most significant legal instruments to address the challenges of international sales contract. The purpose of the CISG is to provide a uniform set of rules that regulate the international sales contracts, thereby reducing legal barriers and promoting international trade as a form of friendly relations (Srivastava, 2020). This is because the CISG can connect diverse legal perspectives by integrating party autonomy and commercial practices, and uniting countries with both civil law and common law systems (Wulandari, 2021). The CISG also provides various means to avoid issues of choice-of-law determination in forming international sales contracts by establishing itself as a standard set of 'accepted substantive rules' that serve as the law governing the formation of international sales contracts. The CISG offers legal certainty in international civil law as a modern version of *lex mercatoria* (law between merchants). Thus, the CISG can address international trade issues arising from contemporary developments. The CISG is also known for its non-monopolistic approach, respecting the contractual arrangements made and agreed upon by the parties, thus preventing absolute intervention that could prohibit transactions or nullify contracts and override domestic legal choices. (Berlingher, 2017)

Before the CISG, domestic law with the concept of *lex mercatoria* was always a legal source in international trade. However, domestic law was considered less effective in resolving disputes within the international scope and posed obstacles in international trade transactions. As a result, the International Institute for the Unification of Private Law ("UNIDROIT") codified the Uniform Law on International Sales of Goods ("ULIS") in 1920 and the Uniform Law on the Formation of Contracts for the International Sales of Goods ("ULFIS") in 1964 (Wulandari, 2021). These laws had a positive impact on international traders, notably by reducing costs and losses associated with choosing courts as the institution for settling international trade disputes. Subsequently, in 1977, both conventions were adopted and modified by the United Nations Commission on International Trade Law (UNCITRAL) to draft the CISG document to reach consensus among countries with different legal and economic systems. This CISG draft was then presented and discussed at a diplomatic conference in 1980, resulting in the CISG being issued as one of the international private law conventions (Cesaria, 2016).

Currently, the CISG has been ratified by 97 countries, which present the dominance of international trade in the global world (UNCITRAL, n.d.). However, the applicability of the CISG faces several challenges. These include the difficulties in achieving the uniformity of contract sales law since some countries have not chosen to ratify the convention yet. For an example is Indonesia, which has not ratified the CISG due to different political will of the government, whereas the Policymaker prefer to revise and strengthen the domestic economic regulations or laws to adapt with the international terms and conditions (Oktaviandra, 2018). On the other hand, many countries have recommended that Indonesia accede to the CISG to achieve a shared goal as an ASEAN nation, namely to strengthen regional cooperation among each other as part of the ASEAN (Juwana, 2013). Therefore, in 2013, the National Legal Development Agency published an academic paper on the ratification of the CISG, with the purpose of providing an academic foundation to recommend the Indonesian government to ratify the CISG (Oktaviandra, 2018).

The academic paper argues that the CISG is a legal convention well-suited to support the future growth of international trade. Specifically, as Indonesia's economy becomes more open to the effects

of globalization, resulting in more frequent trade transactions between Indonesian nationals and foreign parties, thereby there is a need for a legal framework to support and regulate international trade. Moreover, the convention was created by UNCITRAL with the intent of harmonizing and standardizing international trade laws, and many developing and developed countries have participated in it. Ultimately, ratifying the convention would enhance Indonesia's opportunities for international trade with various other countries (Juwana, 2013).

The disregardment of ratifying CISG may hinder the development of international private law in Indonesia. Exclusively, the CISG can help identify and establish the appropriate forum for dispute resolution, exercise jurisdiction over parties, and enforce foreign judgment. In developing International Private Law, it is necessary to balance domestic implementation with international obligations, as well as reconcile national sovereignty with private subjects. Consequently, relationships between parties, whether private subjects or the state, can complement each other. Specifically, private subjects can rely on the legal framework provided by the Indonesian Government in conducting international trade, particularly in the formation of international sales contracts. Meanwhile, the Indonesian Government can refine the legal framework construction based on developments arising from legal relationships due to international trade (Sooksripaisarnkit & Prasad, 2022). Nonetheless, ratifying the CISG remains essential as it enhances legal certainty, particularly when used as a set of default rules.

## RESEARCH METHOD

The research type is normative research. According to Soejono Soekanto, normative research is research that utilizes secondary data gained from document study such as legal materials, namely regulations, court decisions, legal theories, and scholars (Mamudji, 2014). The analysis nature of the research is descriptive, thereby enabling to correlate the legal materials with the issue as the main object of the research (Nugroho et al., 2020).

The approach of this study is the statute approach. Specifically, the normative approach examines all regulations that relevant to the legal issue (Muhaimin, 2020). Meanwhile, the data analysis technique in this research is deductive analysis. This means that legal materials such as regulations, legal principles, and legal doctrines are placed as the "major premise", while facts (legal events) are the "minor premise" (Fajar & Ahmad, 2017). As a result, the researchers aim to use the CISG and legal doctrines to address the legal void and gap that exist in international sales contracts.

## RESULTS AND DISCUSSION

### The Concept of Default Rules in International Sales Contracts

"No written contract is ever complete" as quoted from Arthur Rosett in 'Critical Reflections on the CISG'. That quote resembles how limited the written contract is to express the interest of international business transaction which in nature are not correlated with law. Despite such argument, it must be emphasized that a well written contract is a helpful preventive measure for misunderstandings and legal risk for international transaction, especially when it is provided with a law that regulates the mechanism for the future occurrence (DiMatteo, 2009). Considering that contracts cannot fully clarify all possible issues, including the absence of key elements in the right and obligations of the parties, such as delivery times and the responsibilities of the parties (Zamir, 2021). Additionally, the inherent obstacle of different language, culture, and negotiation style as mentioned before, the international contract are prone for miapprehension. As a result, many countries have established substantive rules that apply, even in the absence of agreements or transactions customs, resulting many different set of substantive rules (DiMatteo, 2009). These substantive rules are known as "Default Rules", whereas the good example in the context sales of goods are The Uniform Commercial Code of United States and the United Kingdom Sale of Goods Act 1979 (Zamir, 2021).

Default rules are a rule that exists and are applicable in the absence of an agreement, which differs from the rules that govern between parties (Mcdonnell, 2007). Default rules intend to facilitate the process of forming and executing a contract, whereas it provides a 'ready to use' solution that may fill gaps in the agreement automatically. However, it is must be emphasized that default rules are not merely defined as a set of applicable rules in every contract. But default rules must be optimal, meaning it must provide an answer to how specific issues should be regulated, especially in the absence of the parties' explicit intent (Grochowski, 2020). To further define the optimal default rules, there are four main elements that must be fulfilled according to the majoritarian theoretical construction as follows:

1. The parties' preferences based on factual conditions. These preferences are based on assumptions or hypotheses regarding the content of the contract that would be optimal for the parties. Thus, based on speculative assumptions, identifying preferences will determine a rule as a default rule to regulate the optimal content of a contract.

2. In the normative dimension, there is strong legitimacy potential. This means that the norm must provide a legal framework to address broad issues from specific reasons through the introduction of specific legislation or laws.
3. In the pragmatic dimension, the norm must be strong and simple. Specifically, the norm must provide solutions to specific issues, reduce the costs of establishing relevant rules, and be cost-efficient in data collection. This way, the rule can serve as a legal framework for filling optimal content as a default rule (relevant for judicial determination as well).
4. The purpose of the default rules. The preferences can aid in the choice of law as a default rule, either *ex-ante* (in forming legislation to become default rules for various contracts) or *ex-post* (in courts to fill gaps in specific contracts) (Grochowski, 2020). As argued by Charles Fried and the academic scholars with the Neo-Formalism theoretical construction, added that to fulfill the legislative and judicial regulation as default rules must firstly encourage parties to formulate comprehensive contracts, thereby minimizing contract disputes (*ex-ante*), then secondly must provide space for cooperation or settlement for the disputes (*ex-post*) (Zamir, 2021).

Based on the theoretical construction of default rules above, it can be concluded that default rules serve as a legal basis arising from the parties' preferences in the contract and as a legal foundation for lawmakers and law enforcers. Furthermore, the following describe what is the impact of default rules:

1. The phenomenon of 'The Stickiness of Default Rules', whereby it describes the condition of contracting parties unable to opt-out of the rules due to the needless and high transaction cost. Even if the default rules are assessed to be the undesired one, the contracting parties might not opt-out when there is a better rule that can identified and articulated the contracting parties' interest (Ben-Shahar & Pottow, 2006). Moreover, the needless and high transaction cost mentioned likely due to a prolong negotiation that may also affect the contracting parties' trust and cooperation, prolong the process of contracting which could end up annulling the contract through settlement due to the lack of information about the relevancy between the default rules and the contracting, and lastly fear of misunderstanding for both parties (Zamir, 2021).
2. Default rules can reduce transaction costs by aligning with the parties' preferences. Aside the phenomenon mentioned before, default rules can save contracting parties from the cost of considering, negotiating, and formulating arrangements regarding which choice of law will govern the contract. Therefore, law such as default rules that function as 'gap-filling' in contracts would reduce or greatly eliminate the cost for contracting parties (Zamir, 2021).
3. Default rules can provide information that was previously undisclosed to one of the parties. In the context of forming contract, both contracting parties expect to have a clear transaction with a filler of asymmetric and incomplete information. Considering uncertainty in information may affect the party. The existence of default rules is not only for reducing cost of contracting, but to induce complete information for both parties by stipulating the breach of contract and the penalty of it (Ben-Shahar & Pottow, 2006).
4. Default rules can guarantee economic welfare and autonomy (Welfare Economics and Autonomy). In the context of contracting, default rules are considered as a tool for human welfare, since it was meant for fulfilling contracting party preferences. Moreover, in the context of contract law and in accordance with the function mentioned, default rules set a notion for lawmaker and legal enforcer to ensure the contracting parties from market failure and limited information. Therefore, both parties do not have to worry about the disparities in knowledge of a law and legal standing (Zamir, 2021).

The concept of default rules is a viable framework that exists in the international private law. This concept offers a good solution for the future occurrence and better understanding as a regulation that can be interpreted by various rule maker and legal enforcers. The clear example correlating between the existence of regulatory as default rules and the lawmakers is the CISG that became the set of rules for the transnational law (Grochowski, 2020).

### **The Nature of CISG as Default Rules in Providing Legal Certainty**

As stipulated in the Preamble of the CISG, the CISG was established to create a set of rules that provide a uniformity characteristic. This characteristic is meant to unify international commerce law, specifically in context of international trade sales contract (Felemegas, 2007). Moreover, the CISG can provide an efficient solution for a necessary issue such as legal and language barrier by creating a uniform legal environment for international sales. Despite this, it is too idealistic and too reckless to expect that there would be no dispute due to the misinterpretation of this convention (Komarov, 2005). Therefore, it is important to understand the nature of the CISG to maximize the applicability of the convention.

The nature of the CISG is similarly identical with the characteristic of default rules. Such statement stems from the key features of the CISG as follows: Firstly, the CISG offers flexibility for the contracting parties to opt-in and to opt-out. The flexibility mentioned meaning that the contracting parties may autonomously decide whether to adopt the convention or not in the contractual terms (Jallo, 2023). This kind of flexibility enshrine the contractual freedom as it is stipulated in Article 6 of the CISG, which states that “*The Parties may exclude the application of this Convention or, subject to article 12, derogate from or vary of the effect of any of its provisions*”. As it is described in the explanatory notes of the CISG, article 6 is the embodiment of party autonomy principle, whereas it permits the contracting parties to exclude (opt-out) the convention according to their preferences (Felemegas, 2007). Thus, the contracting parties may determine and define the contractual terms according to their desire whether to fully include or exclude the Convention, or partly exclude the Convention and include the national law (Mimoso & Azevedo, 2022).

Secondly, the CISG offer the interpretation mechanism on good faith to resolve international contract disputes between the contracting parties. These mechanisms are stipulated in Article 7 (1) of the CISG, which stated that “*In the interpretation of this Convention, regard is to be had to its international character and to the need to promote uniformity in its application and the observance of good faith in international trade.*” These articles enable the contracting parties to autonomously interpret the contractual terms and the CISG must be based on the international character and ensure the promotion of uniformity characteristic of the CISG (Alam, 2021). Scholars interpret that the international character means it must be not regarded as a part of various domestic or national legal system because it would obstruct the autonomy aspect of the interpretation and application of the Convention, which will end up misleading and will lose its true meaning (Felemegas, 2007). Therefore, it is essential to treat the CISG as an interpretation mechanism for contractual terms and must interpreted as international character. In the context of interpretation, the good faith mentioned means that it must fulfill the principle of reasonableness and fairness of interpretaion mechanism (Alam, 2021). Additionally, the context of good faith depends on several prespective, whereas as follows:

1. Good faith as an instrument of interpretation. Whereby the good faith is observed only as a mere tool of interpretation for the judges to decide and interpret the contractual terms.
2. Good faith in the relation of the contracting parties. Whereby the good faith is observed as a tool that assists the contracting parties in forming agreements (Felemegas, 2007).

Moreover, the uniformity aspect of Article 7 (1) means that it is necessary for the interpretation mechanism to be harmonious and convergence, so that it could prevent possibly the misinterpretation due to the difference of legal system and language (Mimoso & Azevedo, 2022).

Thirdly, the CISG offers the gap-filling mechanism. These mechanisms are stipulated in article 7(2), which state that “*Question concerning matters governed by this Convention which are not expressly settled in it are to be settled in conformity with the general principles on which it is based or, in the absence of such principles, in conformity with the law applicable by virtue of the rules of private international law*”. M. J. Bonnell underscores that this article displays two approaches of its application, whereas the CISG governs the matters (*praeter legem*) and the CISG cannot resolve the matter (*intra legem*) (Philippe, 2021). The true intention of the drafter of the CISG is to create the gap-filling mechanism for gap *praeter legem*, which is a matter that should been resolved by the CISG. However, since the interest of the contracting parties cannot be calculated and predicted such as the ‘place of business’, thereby requires supplementary legal basis to assist the CISG to resolve the matter (Luo & Guo, 2024).

Following the explanation above, here is the elaboration of how the CISG can achieve and impact the aspect of legal certainty as a set of default rules in international sales contract, as follows:

1. Flexible and adaptable. In the context of legal certainty, legal rules are considered as a “public good” since it can reduce uncertainties and prevent unwanted legal consequences. Such preventive measure exists in the amidst of the need of a steady legal rules and the dynamic of society, thus a set of rules must be flexible to the changes and adaptable based on times and necessities (Hoffmann & Lucia, 2021). As mentioned before, the CISG offers flexibility mechanism to opt-in and opt-out which allows the parties to choose their set of rules autonomously. However, such mechanism can instigate the phenomenon stickiness of default rules, whereas the contracting parties may mistakenly choose a set of rules that are not in accordance with their preference and interest. (Jallo, 2023). Despite this, the CISG also provide another mechanism in Article 8 which stipulates that the interpretation of the Convention must be according to their intention or the other parties are not unaware of the intent. If the other party is unaware of the intention, then the ‘reasonable person’ such as court through usage and practices must interpret the intention. If the contract deemed unreasonable and inappropriate to use the CISG, which unforeseeable for the

other parties, then the contract can be considered as a breach of contract in accordance with the Article 25 the CISG (Luo & Guo, 2024). Therefore, it can be concluded that the CISG is a good default option to ensure the legal certainty in choosing set of rules.

2. Reducing transaction cost. As to achieve legal certainty, it must be taken note that new legal rules must be assessed from its costs and outcomes in social and economic setting. Such rules must also free from ambiguity and coherent with other legal framework proportionately, reasonably, and well motivated (Hoffmann & Lucia, 2021). Moreover, such set of rules must be able to provide a clear information for the contracting parties, so there would not be a misinterpretation of law and contract, which prolongs the process and increases the cost (Zamir, 2021). As mentioned in the preamble of the CISG, the CISG implicitly aims to reduce transaction cost by facilitating an autonomous interpretation, uniform interpretation, and as well as providing general principles that are applicable in the Convention like the principle of fairness and reasonableness (Murtuza, 2021). As a result, the CISG can accelerate the process of negotiation such as determining the applicable law and skip the process of understanding a complex legal framework by providing a common set of rules (Jallo, 2023).
3. Enhancing legal certainty. According to Maxeiner, legal certainty has the characteristic of clarity, coherence, and stability. Clarity means that legal provisions must avoid obscurities and imprecisions, meaning that the literal gramatical sense and wording must be taken account to prevent a set of rules that are too general for the interpretation. Whilst, coherence mean legal rules and framework must coherent, consistent, and not contradicting, thereby it sustain the legal predictability for the future changes (Hoffmann & Lucia, 2021). Such characteristic is aligned with the main purpose of the CISG, which is to promote legal uniformity and predictability. The CISG offers such a standardized legal framework governing the formation, the obligation of the contracting parties, and supplementary provision for the international sales of goods, which can be adopted and applied by many states. By doing so, regardless the legal system that the States adopt, the contracting parties could anticipate and resolve disputes under the CISG and achieve the legal predactibility (Jallo, 2023).

### **The Ratification Process of the CISG and Foreseeing its Challenges in Indonesia**

Ratification is the process which involves submitting a national draft for approval, usually by an up-or-down vote (Lenowitz, 2022). In the context of international treaties, ratification demonstrates the commitment of country to an international agreement (Widagdo, 2019). The process of ratification involved both internal and external factor, such as requiring the legislative approval to ratify as internal factor and process (Dinata, 2021). Externally, the ratification must be in accordance with the 1969 Vienna Convention on the Law of Treaties and following other international treaties that are binding. Meanwhile, internally, the ratification must be in accordance with the Constitutional law and the legal product that were established by both legislative and executive authority (Setiadi et al., 2024). However, many countries that require legislative approval must face longer processes in ratification compared to that just only need executive approval (Comstock, 2019). This procedure might be considerably prolonged by the number of partner states and formal domestic ratification requirements (Wüthrich, 2020). Such procedure is similar in Indonesia, whereas according to Article 11 of the Constitution of the Republic of Indonesia, the authority to make an international agreement lies within the president and subject to legislative approval (Holiyanto, 2020).

The Law Number 24 of 2000 regarding International Agreements ("Law No. 24 of 2000") regulates the terms and the process of ratification in Indonesia. The Law No. 24 of 2000 refers 'ratification' as 'legalization' in Article 1 paragraph (2), which is a legal act binding oneself to an international agreement in the form of ratification, accession, acceptance, and approval (Setiadi et al., 2024). Additionally, based on Article 3 of the Law No. 24 of 2000, the legal act binding mentioned before are as follows (Matheus et al., 2023):

1. Signatory;
2. Legalization (Ratification);
3. Exchange of agreement documents/diplomatic note;
4. Other methods as agreed by the parties in international agreements.

Such incoherence explanation in drafting the Law No. 24 of 2000 causes confusion in defining the terms in Indonesia, whereas it simply explains that "ratification is because of the ratification". However, according to Mochtar Kusumaatmadja, despite the ambiguity and uncertainty in defining the ratification, the result never distinguished from its purpose, which is either to grant an approval to ratify or the act of ratification itself (Elvardi et al., 2022). Ultimately, the Article 9 of Law No. 24 of 2000 underscores that the 'ratification' is the process which Indonesia binds itself to international agreements by issuing a Law

or Presidential Regulation, rather than through a ratification instrument by the Minister of Foreign Affairs (Setiadi et al., 2024).

Before the implementation of ratification is approved, there are several criteria that must be fulfilled in accordance with Article 10 of Law No. 24 of 2000. These criteria include political issues regarding peace and national security, changes or determination of national territory, national sovereignty, human rights and environmental concerns, the establishment of new legal rules, as well as foreign loans or grants (Elvardi et al., 2022). Whilst the CISG is not on issues such as national sovereignty and territorial concern, the ratification of the CISG would result in significant impact to the establishment of new legal rules in international commercial laws and international private laws (Wulandari, 2021). Therefore, it is legally reasonable to ratify the CISG.

If such criteria are met and fulfilled, then the continuity of ratification process depends on the approval from the Indonesian Parliamentary, namely "Dewan Perwakilan Rakyat." The approval mentioned must be in the form of regulation or rules which are explicitly stipulated in Article 9 (2) and Article 10 of Law No. 24 of 2000 underscores that (Widagdo, 2019). However, during the ratification process, states have two key responsibilities that must also be taken account, such as ensuring compliance with the constitution and transforming international agreements into national laws. This transformation is essential, particularly for agreements with law-making treaties, to adapt international regulations into domestic legislation (Juwana, 2019).

Based on the explanation above, it can be concluded that in the process of ratification, the parliamentary must take a lot of consideration to answer questions, such as follows, does the Convention have enough and reasonable ground to be ratified? Does the benefit of ratifying commensurate the process length and the cost of the ratification? What is the effect of ratifying and what must be done after? Such question will be the challenges and the general issues that may come in ratifying the CISG. Ultimately, the ratification of the CISG must also take account such as follows:

1. Compatibility with Indonesia's legal system. One of the main issues of ratifying the CISG is to ensure the CISG is compatible and harmonize with the existing regulations in Indonesia, such as Civil Code and the commercial law. Unlike the CISG, Indonesia law has a lot of differences when compared in terms of formation, obligations by parties, as well as the remedies for breach. In this sense, for instance Indonesian law generally does not provide any recognition to the "fundamental breach" concept defined by CISG or lack of clearly regulated provision about passing of risk in a sale contract that is crucial in an international sales contracts are governed by the CISG (Haeruddin & Mansur, 2019). The existing contract law in Indonesia may need to be amended to integrate the CISG's principles, a process that could prove time-consuming and complex (Oktaviandra, 2018). Moreover, inconsistencies between CISG and domestic law may result in the confusion of a possible contradiction during its implementation. As an example, Indonesian courts may find it challenging to interpret and apply the CISG if its judges are not well-versed with the terms of the treaty and accompanying jurisprudence (Haeruddin & Mansur, 2019). However, studies suggest that the CISG's principles are not conflicting with Indonesia Civil Code, resulting ratification feasible (Qasthari et al., 2019). As a result, there is still chance to ratify the CISG in Indonesia and can strengthen the legal certainty for Indonesia international contract and commercial law (Wulandari, 2021).
2. Potential conflict with domestic interest. Given various reasons, the ratification of CISG in Indonesia has raised many debates despite the positive potential of the Convention such as strengthening the legal certainty in international contract law in Indonesia (Wulandari, 2021). Such reluctance arises from questioning regarding the adequacy of the current business practices and global pressure which exerted on states to adopt the CISG (Oktaviandra, 2018). The decision to ratify the CISG involves several complex considerations, including the advantages and disadvantages, and waiting for judicial guidance on essential segments of the convention (Haeruddin & Mansur, 2019). The complexities of ratifying one of the international commercial law conventions illustrate that political barriers are particularly important, which can be only resolved by only depending on the politic actor as the crucial factor.
3. High cost of legislating. The ratification process would also require another process to revise an existing law, whereas that process would cost very highly. Taking account that in realizing the 2020 National Priority Legislation Program, it cost IDR 184.05 billion to process 50 regulations that are included in the program. Such cost is high for such amount of regulations (Setiadi et al., 2024).

## CONCLUSION

In conclusion, default rules play a vital role in international sales contracts. As contracts are unable to fully address all future occurrences and ensure no misinterpretation caused by language and legal

barriers, the default rules provide a preventive and resolute measure as a set of rules that are applicable in the absence of law and interpretation of the contractual terms. Therefore, the content of the default rules must be able to accommodate factual conditions of the contracting parties, contain a legal predictability and certainty, and applicable either as a tool of interpretation to resolve disputes or as an encouragement for the contracting parties in forming a comprehensive contract. As a result, the default rules can induce the phenomenon of the stickiness, reduce transaction cost, provide a complete information for both parties, and guarantee the aspect of economic welfare and autonomy. Ultimately, the default rules can achieve its purpose as a gap-filling and tool of interpretation such as the CISG.

The CISG functions as an effective set of rules for international sales contracts. By nature, the CISG is the embodiment of the default rules theoretical framework, whereas the CISG offers the flexibility for the contracting parties to include or exclude the convention (Article 6), the interpretation mechanism (Article 7 (1)), and the gap-filling mechanism (Article 7 (2)). Thus, if the CISG is ratified by the states and adopted by the contracting parties, it may instigate the phenomenon the stickiness of default rules, reduce transaction costs, and enhance legal certainty. Thereby, the CISG can be reliable legal framework that aligns with the contracting parties, whilst ensuring legal certainty and legal predictability.

Ratification in Indonesia is a multi-faceted process involving both internal and external factor in accordance with the Law No. 24 of 2000, which mandates parliamentary approval in a form of rules or regulation. To prepare the CISG ratification, Indonesia must first address their issues, including the inconsistencies or the compatibility issues with its current legal system, ensuring the domestic interest are fairly represented, and dealing with the high cost of legislating. However, despite the challenges, ratifying the CISG remains feasible, whereas the CISG's principles are align with the national interests and potentially improving the certainty as well as the stability in international trade for Indonesia business.

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