



Universiteit
Leiden
The Netherlands

Enforced performance of commercial sales contracts in the Netherlands, Singapore and China

Kemp, P.C.M.

Citation

Kemp, P. C. M. (2020, January 23). *Enforced performance of commercial sales contracts in the Netherlands, Singapore and China*. Eleven International Publishing, Den Haag. Retrieved from <https://hdl.handle.net/1887/83262>

Version: Publisher's Version

License: [Licence agreement concerning inclusion of doctoral thesis in the Institutional Repository of the University of Leiden](#)

Downloaded from: <https://hdl.handle.net/1887/83262>

Note: To cite this publication please use the final published version (if applicable).

Cover Page



Universiteit Leiden



The handle <http://hdl.handle.net/1887/83262> holds various files of this Leiden University dissertation.

Author: Kemp, P.C.M.

Title: Enforced performance of commercial sales contracts in the Netherlands, Singapore and China

Issue Date: 2020-01-23

PROPOSITIONS

Relating to the dissertation
*Enforced performance of commercial sales contracts in
the Netherlands, Singapore and China*
by Paula Kemp

1. The differences between the contract law of the Netherlands, Singapore and China trace back to their valuation of a contractual promise and the extent to which they make a cure for non-performance external to the contractual rights.
2. The civil law understanding of the required reciprocity and the common law doctrine of consideration reinforce the idea that the investigated legal systems are arguing at cross-purposes.
3. The limitations to enforced performance in the investigated legal systems are rooted in the way the law facilitates the protection of the buyer's performance interest and the seller's interest in protection against unjustifiable consequences.
4. Given the primary status of damages in the contract law of Singapore and the specific bars to enforced performance adopted by the contract law of China and the investigated unification instruments, the Dutch civil law system provides creditors with the highest level of assurance that contractual rights can be enforced.
5. The baseline of Singapore common law's strict assessment of the appropriateness of enforced performance deriving from the adequacy of damages bar makes more sense than the primary status of enforced performance under Dutch and Chinese contract law when intensive cooperation of the seller is required, and the buyer may not have a long term interest in the relationship.
6. China achieved something which is broadly perceived as very challenging at the international level by the consolidation of the civil and common law traditions surrounding the enforceability of contractual obligations in a way that it brings about a middle-ground solution.
7. It is a dangerous thing for businesses and legal practitioners to assume that application of their national law in an international commercial sales contract rules out application of a foreign enforcement regime.

8. The discretionary power of the courts to circumvent the primary right to performance of a CISG-contract is the paradox that lies at the heart of the signatory states' ambitions to provide commercial parties with a uniform contract law instrument that bridges the yawning gap between the civil and common law traditions.
9. A commercial sales contract can create obligations beyond the *quid pro quo*, and that is what contract law should enforce.
10. Globalised trade necessitates legal thinking in the commercial valuation of sales contracts.
11. The notion that you do not have to tie your laces because you have never tripped on them reflects an amazing positive outlook on life events.