

The Controversies of Applying the Good Faith Principle (Art. 7(1) CISG) in an Australian Context

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Australia ratified the CISG entering into local force on 1 April 1989. Article 7(1) of the CISG introduces a good faith principle, which this contribution explores in light of Australia's legal doctrine and jurisprudence. Part 2 of this paper outlines its legislative background. Part 3 discusses the international controversy of five different interpretations of the good faith principle as outlined in Art. 7(1) CISG. Part 4 turns to domestic controversies in the reluctance of legal practitioners to familiarise themselves with the Art. 7(1) CISG despite its domestic effects and suggests Australian legal practitioners familiarise themselves with and apply Art 7(1) CISG domestically when it would deliver best outcomes to the client and facilitate justice in the court. Part 5 concludes the paper and opines Australian courts may interpret Art 7(1) CISG considering the working group, UNCITRAL and diplomatic conference debate during the drafting of the CISG, and it presents an opportunity to align domestic jurisprudence for implied duty of good faith.

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