The legal issues of Electronic Communications under CISG

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The 21st century witnesses a significant change in commerce due to the development of technology. The changes in forms of communication in international trade such as voice, video call, email, SMS have outstripped and replaced other more traditional forms of communications such as paper, post, letter. In international transactions, using electronic means of communication technology has been popular for parties to conclude international sale contracts. However, the law of contract has been trailing behind in the advancement of solutions for the use of electronic communications in commerce, leading to legal uncertainty which in turn creates obstacles to trade. The United Nations Convention on Contracts for International Sale of Goods 1980 ('CISG') was introduced a quarter of century ago with the aim of uniformity for international sale of goods worldwide; its regulations on electronic communication were absent. The research aims to determine whether the CISG covers the elements of digital communication in an international transaction since there is no clear mention in the Convention. The research examines the form requirement under Article 13 of the Convention which includes telegram and telex to be considered as writing and whether this also includes electronic transactions. Besides, the research identifies whether other terms, for example 'notice', 'oral', 'reach' refer to the use of electronic communication. The research also discusses the concept of cyberspace as a place of business to determine the requirement of internationality under the Convention. The research thereby asserts that the CISG does apply to the use of electronic communication technology in international sale contracts.

Keywords: Electronic communication, CISG, international sale contract