



Indonesia's Preparedness to Ratify the United Nations Convention on Contracts for the International Sale of Goods (CISG)

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Abstract

Integrated international trade requires legal certainty that reduces transaction costs and mitigates disputes across jurisdictions. Although most of Indonesia's major trading partners have ratified the United Nations Convention on Contracts for the International Sale of Goods (CISG), Indonesia remains a non-Contracting State. This situation often forces domestic parties to accept foreign governing laws or international arbitration, resulting in legal uncertainty and higher transaction costs. The present study analyses regulatory gaps between Indonesian commercial contract law (including the Civil Code, Commercial Code and Trade Law No. 7 of 2014) and the CISG, evaluates the practical implications of non-ratification, and formulates pragmatic strategies for harmonisation. Employing normative legal analysis and comparative policy review, the paper recommends staged harmonisation involving targeted legislative updates, model transitional contract clauses and capacity-building for institutions and market participants. These measures aim to strengthen legal certainty and enhance Indonesia's competitiveness in cross-border trade.

Keywords: CISG; international contract law; legal harmonisation; legal certainty; international trade; Indonesia.

Abstrak

Perdagangan internasional yang semakin terintegrasi menuntut kepastian hukum yang mampu menurunkan biaya transaksi dan mengurangi risiko sengketa lintas yurisdiksi. Meskipun sebagian besar mitra dagang utama Indonesia telah meratifikasi United Nations Convention on Contracts for the International Sale of Goods (CISG), Indonesia belum bergabung dengan instrumen internasional tersebut. Keadaan ini menempatkan pelaku usaha domestik pada pilihan hukum asing dan forum arbitrase internasional, sehingga menimbulkan ketidakpastian hukum dan peningkatan biaya transaksi. Studi ini menganalisis kesenjangan regulasi antara hukum kontrak dagang Indonesia (termasuk KUH Perdata, KUHD dan UU No. 7/2014) dengan ketentuan CISG, mengevaluasi implikasi praktis dari tidak diratifikasinya CISG, serta merumuskan strategi harmonisasi hukum yang pragmatis. Melalui kajian normatif dan analisis kebijakan komparatif, penelitian ini merekomendasikan harmonisasi bertahap yang mencakup revisi regulasi, penyusunan klausul kontrak transisi, serta peningkatan kapasitas institusional dan pelaku usaha. Rekomendasi tersebut diharapkan dapat memperkuat kepastian hukum dan daya saing Indonesia dalam perdagangan lintas batas.

Kata kunci: CISG; hukum kontrak internasional; harmonisasi hukum; kepastian hukum; perdagangan internasional; Indonesia.

I. Introduction

International trade plays a central role in driving economic growth, technological transfer and integration into global value chains. The increasing volume and complexity of cross-border transactions demand legal frameworks that minimise transaction costs and reduce the risk of disputes. Recent data show that Indonesia's export value continues to grow, reflecting the necessity of responsive legal frameworks that keep pace with modern trade practices.

One of the most prominent legal instruments offering uniform standards for cross-border sale of goods contracts is the United Nations Convention on Contracts for the International Sale of Goods (CISG). Drafted by the United Nations Commission on International Trade Law (UNCITRAL) and adopted in 1980, the CISG seeks to provide common rules on contract formation, parties' obligations, remedies for breach and exemptions. By bridging differences between civil law and common law systems, it enhances certainty in international transactions.

Nearly all of Indonesia's major trading partners—China, Singapore, the United States, Japan and Russia—have ratified the CISG and use it as the default legal framework in cross-border transactions. Indonesia, however, has yet to accede to the Convention. Domestic businesses are consequently often compelled to adopt foreign governing law or international arbitration forums stipulated by their trading partners. Such practices heighten legal uncertainty and increase transaction costs for Indonesian exporters and importers.

Domestically, contract law remains anchored in the Civil Code and the Commercial Code, both rooted in colonial heritage. These codes emphasise formal requirements for contract validity, such as those set out in Article 1320 of the Civil Code. While these provisions provide certainty in domestic transactions, they lack the detailed provisions needed in modern international commerce—such as rules on electronic contracts, commercial conduct as contract formation and sophisticated delivery schemes.

Prominent differences between the CISG and domestic law lie in contract formation, parties' obligations, remedies and force majeure. The CISG details an offer–acceptance regime that allows contracts to be formed through commercial conduct and expressly regulates counter-offers. It defines delivery obligations, standards of conformity and remedies such as replacement, repair, price reduction and avoidance for fundamental breaches—provisions that are more operational than the broadly framed rules in the Civil Code.

Indonesia's non-ratification of the CISG produces practical consequences: contracts often default to foreign law; international arbitration is frequently adopted; and the need for multi-jurisdictional legal advice increases transaction costs and reduces competitiveness, especially for small and medium enterprises (SMEs). Scholarly and professional debates highlight potential economic and legal benefits of ratification but also point to administrative hurdles, the necessity of aligning domestic regulation and institutional coordination.

Against this backdrop, the present study aims to: (1) examine substantive differences between the CISG and Indonesian commercial contract law—including the Civil Code, the Commercial Code, the 2014 Trade Law and the 1999 Consumer Protection Law; (2) evaluate practical implications of Indonesia's non-participation for legal certainty and bargaining power of domestic firms; and (3) assess Indonesia's readiness to ratify the CISG and propose strategies for an effective and inclusive legal transition. The study contributes by comparing international and domestic contract law and offering practical policy guidance. Recommendations include selective regulatory amendments, transitional contract clauses, capacity-building programmes and broad public consultation to improve legal certainty and enhance Indonesia's competitiveness in the global market.

II. Literature Review

The United Nations Convention on Contracts for the International Sale of Goods (CISG) is a multilateral instrument drafted by UNCITRAL and adopted on 11 April 1980 to provide a modern,

uniform legal framework for cross-border sale of goods contracts. It seeks to reduce legal barriers to international commerce by supplying default rules that Contracting States apply directly, thereby lowering transaction costs and uncertainty. The CISG entered into force on 1 January 1988 and has since become one of the most widely adopted instruments in international trade law.

The Convention applies to contracts for the sale of goods between parties whose places of business are in different States when either both States are Contracting States or private international law leads to the law of a Contracting State (Article 1). It does not apply to certain types of sales, such as consumer goods, auctions, sales pursuant to law, shares and securities, ships, aircraft or electricity (Article 2). The CISG is therefore extensive but not universal; its application depends on the parties' business locations and choice of law.

Structured into four parts—scope and general provisions, contract formation, obligations of the parties and final clauses—the CISG is often complemented by instruments like the Convention on the Limitation Period in the International Sale of Goods. Article 7 emphasises interpreting the Convention with regard to its international character and promoting uniformity and good faith. This encourages judges and arbitrators to adopt a transnational perspective rather than domestic doctrine.

Notably, the CISG's offer–acceptance mechanism allows contracts to be formed through conduct. It specifies when offers and acceptances become effective and treats material variations in acceptance as counter-offers (Articles 18–19), providing flexibility over formalistic requirements. The Convention delineates sellers' obligations to deliver goods and documents, comply with various delivery schemes and ensure conformity of goods (Articles 30–35). Buyers must examine goods within a reasonable time and notify the seller of any non-conformity, failing which their rights may be lost (Articles 38–39). The CISG thus balances evidence requirements and contractual certainty.

The CISG also provides structured remedies: buyers may demand performance, damages or avoidance for fundamental breach and request repair, replacement or price reduction, while sellers have parallel rights (Articles 45–52, 61–65). Damages include lost profits but are limited to what was foreseeable (Article 74). Risk of loss passes according to delivery terms but does not limit remedies for pre-transfer breaches (Articles 66–70). Article 79 offers exemption for impediments beyond control, subject to notice and mitigation, though hardship is not expressly regulated.

Table 1. Summary of CISG

Aspect	CISG Article(s)	Key provisions / function
Scope and exclusions	Arts. 1–2	Applies when parties' businesses are in different Contracting States; excludes consumer goods, auctions, sales pursuant to law, shares, ships, aircraft and electricity.
Structure of the Convention	Parts I–IV	Part I: scope and general provisions; Part II: formation (Arts. 14–24); Part III: obligations, conformity, remedies (Arts. 25–88); Part IV: final clauses; includes the Limitation Convention.
Interpretation	Art. 7	Requires regard to international character, uniformity and good faith; gaps filled by general principles of international contract law.
Contract formation	Arts. 14–24	Regulates offers and acceptances; allows acceptance by conduct; material variations constitute counter-offers.
Seller's obligations	Arts. 30–35	Deliver goods and documents; comply with delivery terms; ensure conformity (quantity, quality, packaging).
Inspection and notice	Arts. 38–39	Buyer must inspect goods promptly and notify the seller of non-conformity within a reasonable time or forfeit remedies.
Buyer's obligations	Arts. 53–59	Pay the price and accept delivery; specifies procedures, formalities and timing of payment.
Remedies for buyer	Arts. 45–52	Performance, damages, price reduction, repair/replacement, avoidance for fundamental breach.
Remedies for seller	Arts. 61–65	Payment, damages, additional time, avoidance if buyer breaches.
Passing of risk	Arts. 66–70	Risk passes according to delivery arrangements; fundamental breach preserves buyer's remedies.
Damages	Art. 74	Compensation including lost profits subject to foreseeability.
Force majeure	Art. 79	Exemption for impediments beyond control, requiring notice and mitigation; hardship not explicitly regulated.

The United Nations Convention on Contracts for the International Sale of Goods (CISG) is frequently used together with other UNCITRAL instruments. Most immediately relevant is the Convention on the Limitation Period in the International Sale of Goods, which harmonizes limitation periods for claims (a four-year basic rule with certain maximum extensions) and aligns related procedural time-limit issues. In practice, technological developments have also created interactions between the CISG and instruments governing electronic communications, and commercial parties commonly add express contractual clauses to avoid technical uncertainty about, for example, when an electronic message constitutes an offer or acceptance. (United Nations Commission on International Trade Law [UNCITRAL], 1980; United Nations, 1974).

To promote uniform interpretation, UNCITRAL supports the systematic collection and dissemination of case law through the CLOUT (Case Law on UNCITRAL Texts) program and via the UNCITRAL *Digest of Case Law on the CISG*. These resources are complemented by practitioner and academic repositories: the Pace Institute of International Commercial Law (IICL) maintains one of the most comprehensive CISG databases (texts, translations, and selected decisions), while the CISG Advisory Council (CISG-AC) issues interpretive opinions on technical questions (for example, the notice period under Article 39). Courts and arbitral tribunals routinely rely on these databases and opinions to achieve interpretive consistency across jurisdictions. (UNCITRAL, 2016; Pace IICL, n.d.; CISG-AC, n.d.).

As of the latest consolidated records, dozens of States—approaching one hundred—have ratified the CISG; official listings and chronological accession data are publicly available on the UNCITRAL and Pace IICL websites. For States that have not acceded (Indonesia is an oft-cited example), the practical consequence is that cross-border contracts involving local parties and foreign partners commonly fall under a foreign governing law or international arbitration forum. That reliance on third-country law or forums raises transaction costs and legal uncertainty for domestic businesses. Accordingly, accession implicates legislative choices—for instance, whether to enter reservations, how to harmonize domestic terminology, and what national outreach and training are necessary for judges and commercial actors. (UNCITRAL, n.d.; Pace IICL, n.d.).

The CISG's principal strengths are its neutral, system-transcending orientation (it is not rooted in a single domestic tradition), its pragmatic, operational rules on contract formation, its clear treatment of *conformity* of goods, and its spectrum of practical remedies. Its limits include explicit exclusions for certain sales, an absence of a clear, general rule on economic *hardship*, and interpretive challenges that arise across differing legal cultures—challenges that make reliance on consolidated case databases and comparative opinions essential. Consequently, effective use of the CISG in practice typically requires: (a) formal accession and removal of domestic ambiguities; (b) complementary contractual clauses (choice-of-law, hardship and renegotiation clauses, detailed notice regimes); and (c) strengthened judicial and advocacy capacity to achieve consistent interpretation. (UNCITRAL, 1980; Pace IICL, n.d.; UNCITRAL, 2016).

For legal scholarship and for practitioners preparing court or arbitral submissions, the primary references are the official CISG text (UNCITRAL PDF), the UNCITRAL status page for parties, the UNCITRAL *Digest of Case Law on the CISG* (2016 edition), and practitioner databases such as Pace/IICL and CISG-Online, which provide article-by-article annotation and curated case collections. For technical issues—passing of risk, avoidance, and notice—secondary literature frequently cited includes commentaries prepared by the UNCITRAL Secretariat, classic academic commentaries (e.g., Magnus/Schlechtriem), and CISG-AC opinions. These primary and secondary resources together form the toolkit for sound analysis and for supporting persuasive interpretive arguments in courts and tribunals. (UNCITRAL, 1980; UNCITRAL, 2016; Pace IICL, n.d.; CISG-Online, n.d.; CISG-AC, n.d.).

Table 2. Selected CISG Case Law

Case	Jurisdiction / forum	CISG Article(s)	Main issue	Decision summary
Frozen Pork Case (BGH VIII ZR 159/94, 1995)	Federal Court of Justice (Germany)	Arts. 38–39	Notice of non-conformity	Buyer failed to notify quality defects within a reasonable time; court held that failure barred remedies.
Schmitz-Werke GmbH & Co. v. Rockland Industries Inc. (2000)	U.S. District Court, Maryland	Arts. 35, 39	Non-conformity and notice	Buyer's notice of fabric defects lacked detail; court denied claim.
ICC Arbitration Case No. 8128/1995	ICC Arbitration	Arts. 49, 25	Fundamental breach	Arbitral tribunal held that serious quality defects justified avoidance.
Czech Heating Equipment Case (OGH 2 Ob 100/05g, 2005)	Supreme Court of Austria	Arts. 66–70	Passing of risk	Risk passed at delivery to carrier; fundamental breach preserved buyer's remedies.
Steel Tubes Case (CIETAC, 1997)	China International Economic and Trade Arbitration Commission	Art. 79	Force majeure / impediment	Embargo prevented delivery; tribunal found Article 79 excused performance with notice.

The CISG is dynamic and adaptable. Academic literature notes that the Convention is being tested against emerging challenges, such as its applicability to non-software data transactions and cryptocurrencies, compatibility with Islamic contract law and the political dynamics influencing ratification. For instance, Hayward (2021) argues that the CISG can govern non-software data trade and even cryptocurrencies. Dawwas (2025) highlights that courts in Egypt, Bahrain, Qatar and Jordan sometimes treat the CISG as a fact to be proven rather than directly applicable law, undermining its effectiveness. Abrishami (2021) explores Iran's cautious approach to ratification, suggesting that combining the CISG with the UNIDROIT Principles may be more effective. Researchers also examine compatibility with sharia-based transaction law and identify significant normative gaps regarding riba (interest), gharar (uncertainty) and risk distribution.

Table 3. Selected Literature on CISG

Paper	Abstract	Summary	Key findings	Discussion
<i>To Boldly Go, Part I</i> (Hayward, 2021)	Develops a framework to assess whether the CISG governs non-software data trade.	Proposes criteria for applying the CISG to software and non-software data.	The CISG can govern non-software data transactions; it remains relevant for software and data.	Suggests that the CISG's scope may extend to data trade, highlighting its economic significance.
<i>To Boldly Go, Part II</i> (Hayward, 2021)	Explores CISG applicability to non-software data and cryptocurrencies.	Concludes that the CISG can apply to non-software data and discusses cryptocurrencies.	Non-software data transactions fall within the CISG; cryptocurrencies may be covered.	Shows the CISG's evolving relevance in digital trade and cryptocurrency.
<i>CISG-Applicability Before National Judiciary in Egypt, Bahrain, Qatar and Jordan</i> (Dawwas, 2025)	Examines CISG application in Arab jurisdictions and recommends treating it as law rather than fact.	Analyses decisions and urges courts to apply the CISG ex officio.	Courts and legislatures should change their approach; judges should apply the CISG without proof.	Advocates recognising the CISG as substantive law in Arab courts to enhance certainty.
<i>When Federal Law Goes Unnoticed: Assessing the CISG's Applicability Across U.S. Courts</i> (Arlota et al., 2023)	Evaluates how U.S. courts applied or ignored the CISG (1988–2019).	Uses empirical analysis to identify factors influencing application.	Provides insights on parties raising CISG issues and court responses; logistic regression identifies significant factors.	Reveals a gap between the CISG's text and its inconsistent application in U.S. courts.
<i>Should Iran Join the CISG?</i> (Abrishami, 2021)	Discusses whether Iran should ratify the CISG	Assesses pros and cons; proposes	Iran needs contract law modernisation;	Suggests ratifying the CISG

Paper	Abstract	Summary	Key findings	Discussion
	and recommends combining it with the UNIDROIT Principles.	combining the CISG with the UNIDROIT Principles of International Commercial Contracts.	the CISG alone is insufficient; the UNIDROIT Principles add flexibility; ratification remains controversial.	alongside other instruments to modernise Iranian contract law.
<i>The CISG and European Private Law: When in Rome, Do as the Romans Do</i> (Schwenzer & Wittum, 2022)	Analyses the CISG's impact on European private law reform.	Examines trends showing domestic and international laws adopting CISG solutions.	The CISG influences lawmaking; European reforms adopt concepts of non-conformity and damages; some modifications remain controversial.	Highlights the CISG's role as a reference for reform while acknowledging debates on certain adaptations.
<i>Legal Harmonisation of International Trade Contracts in the Framework of Islamic Transaction Law</i> (Mubarak et al., 2025)	Examines harmonisation of the CISG with sharia-based transaction law.	Identifies four issues: contract validity, existence of the object, price certainty and third-party contracts.	Significant normative gaps exist between the CISG and Islamic contract law; harmonisation is needed.	Calls for hybrid legal innovations combining sharia principles and international standards.
<i>Political Barriers in the Ratification of International Commercial Law Conventions</i> (Hoekstra, 2021)	Analyses political obstacles to ratifying international commercial law conventions.	Discusses agenda setting, key actors and political barriers to CISG ratification.	Ratification is influenced by domestic actors and agendas; stakeholder lobbying and visibility are essential.	Concludes that political considerations often outweigh purely legal factors in ratification decisions.

III. Research Methodology

This study adopts a normative-comparative framework to assess the alignment of national positive law norms with CISG provisions and draw practical implications. The methodology combines statutory analysis, comparative analysis and case studies to understand how legal norms operate in practice. This approach identifies regulatory gaps, interprets norms and formulates operational recommendations.

First, the statutory approach involves comprehensive analysis of national legal sources: the Civil Code (KUH Perdata), the Commercial Code (KUHD), Law No. 7 of 2014 on Trade, Law No. 8 of 1999 on Consumer Protection and implementing regulations such as Government Regulation No. 80 of 2019 on Electronic Commerce. The analysis focuses on substantive and procedural norms governing contract formation, parties' obligations, remedies, e-commerce and consumer protection.

Second, the comparative approach compares these national norms with the CISG, focusing on contract formation, obligations of sellers and buyers, inspection and notice, remedies, passing of risk and exemptions. The aim is to identify congruence, normative conflicts and areas requiring harmonisation or transitional contract clauses.

Third, the case approach examines empirical practice in contracts between Indonesian firms and CISG-Contracting State partners and analyses arbitral awards and case law. Using gap analysis, it maps compatibilities, incompatibilities and legal vacuums, complemented by literature review, trade data and case-law databases such as the UNCITRAL Digest, the Pace CISG Database and CISG-Online. These empirical insights support evidence-based recommendations.

Data analysis is qualitative and interpretative: statutory texts are read hermeneutically to derive rules and normative objectives, while comparative findings and case studies are analysed descriptively to formulate harmonisation options. Findings are verified against primary sources and recognised secondary literature. Conclusions and recommendations are designed to be operationally relevant for policymakers and practitioners of international contracts in Indonesia.

Table 4. Summary of Normative-Comparative Method

Approach	Brief description	Focus / analytical technique	Sources
Statutory approach	In-depth analysis of national legal texts: Civil Code, Commercial Code, Trade Law, Consumer Protection Law and electronic commerce regulations.	Close reading and mapping of articles to identify substantive and procedural norms on contract formation, parties' obligations, remedies, e-commerce and consumer protection.	Civil Code; Commercial Code; Law No. 7/2014; Law No. 8/1999; Government Regulation No. 80/2019
Comparative approach	Comparison of national norms with CISG provisions across key aspects.	Juxtaposition of articles on formation, obligations, inspection and notice, remedies, passing of risk and exemptions to identify congruence and conflicts and recommend harmonisation.	UNCITRAL (1980) CISG text
Case approach	Empirical assessment of contractual practice and case law involving Indonesian firms and CISG partners.	Selection of relevant cases, coding issues (notice, risk passage, fundamental breach, Article 79), triangulation with trade data and literature.	UNCITRAL Digest; Pace CISG Database; CISG-Online

IV. Discussion

1. Regulatory Gaps between Domestic Law and the CISG

Contract formation. Article 1320 of the Civil Code requires four classical elements for a valid contract: agreement, capacity, a definite object and a lawful cause. This framework emphasises formal consent. The CISG adopts a more operational offer–acceptance mechanism: acceptance becomes effective when communicated or demonstrated through commercial conduct, and material modifications constitute counter-offers (Articles 18–19). Whereas the Civil Code lacks detailed rules on counter-offers and timing of acceptance, the CISG provides explicit guidance and flexibility, accommodating electronic contracts and modern practices.

Obligations of sellers and buyers. Domestic law imposes generic obligations: sellers must deliver the object and buyers must pay the price. It lacks detailed provisions on delivery modes, conformity standards or risk transfer. By contrast, the CISG stipulates delivery and documentation duties (Article 30), elaborates delivery schemes (Articles 31–33) and defines conformity (Article 35) in terms of quantity, quality and packaging. The Convention also specifies when payment is due and the formalities required (Article 59). These detailed norms reduce ambiguity in cross-border trade.

Remedies and breach. The Civil Code recognises classical remedies—performance, damages and rescission—with procedural requirements such as prior notice (Articles 1243, 1266–1267), but it neither distinguishes between fundamental and non-fundamental breaches nor provides remedies such as price reduction. The CISG offers a nuanced spectrum: buyers may claim performance, damages, avoidance, repair, replacement, additional time or price reduction (Articles 45–50), while sellers have parallel rights (Articles 61–64). This flexibility enables proportionate remedies and efficient dispute resolution.

Force majeure and hardship. Article 1245 of the Civil Code briefly exempts a debtor if performance is prevented by force majeure but does not address notice, proof or mitigation. Article 79 of the CISG exempts liability for impediments beyond control, requiring the party to notify the other and mitigate loss. Although the CISG does not explicitly regulate economic hardship, Article 79 and arbitral practice allow for renegotiation clauses. Thus, the CISG provides a more operational framework for force majeure and invites contract clauses addressing hardship.

Table 5. Regulatory Gaps (KUH Perdata vs CISG)

Aspect	Civil Code	CISG	Key differences	Practical implications
Contract formation	Art. 1320 requires consent, capacity, definite object and	Arts. 14–24 regulate offers and acceptances; acceptance by conduct; material modifications	Domestic law focuses on formal consent; the CISG emphasises	The CISG supports electronic and modern contracting; domestic law

Aspect	Civil Code	CISG	Key differences	Practical implications
	lawful cause.	constitute counter-offers.	functional formation.	may create uncertainty when only conduct is used.
Obligations of parties	General duty to deliver and pay; lacks detailed delivery schemes and conformity standards.	Art. 30 requires delivery of goods and documents; Arts. 31–33 set delivery schemes; Art. 35 defines conformity.	The CISG provides operational guidance; domestic rules are generic.	Cross-border transactions gain clarity under the CISG; domestic contracts need explicit clauses to avoid ambiguity.
Remedies	Performance, damages, rescission; no price reduction; no distinction between breaches.	Arts. 45–50, 61–64: performance, damages, avoidance, repair, replacement, additional time, price reduction.	The CISG differentiates fundamental breaches and offers proportional remedies.	The CISG facilitates efficient resolution; domestic law may require court proceedings and raise costs.
Force majeure	Art. 1245 excuses performance for force majeure; no notice or mitigation.	Art. 79: exemption for impediments beyond control; requires notice and mitigation; hardship addressed in practice.	The CISG specifies conditions for exemption; domestic law is generic.	The CISG enables clear force majeure clauses and encourages hardship provisions; domestic law may lead to varied interpretation.

2. Practical Implications of Non-Ratification

Indonesia’s absence from the CISG yields tangible consequences. First, parties often choose foreign law (*lex contractus*) or international arbitration, diminishing the influence of domestic law and weakening Indonesian businesses’ bargaining positions. Second, without a uniform framework like the CISG, contracts must include detailed clauses—force majeure, delivery, remedies—and require expert verification of foreign law, increasing negotiation and legal costs. This burden is heavier for SMEs, which lack resources to obtain cross-border legal advice.

Third, limited legal literacy among SMEs exacerbates vulnerability: many small enterprises accept unfavourable clauses or restrict export activities to avoid complex disputes. Studies indicate that adoption of the CISG in Contracting States reduces procedural costs and lowers entry barriers for SMEs. Fourth, Indonesia’s non-participation may affect foreign investor perceptions: harmonised rules and adoption of international norms are linked to improved regulatory credibility. Vietnam’s adoption of the CISG in 2017 is cited as enhancing investor confidence and lowering transaction costs, even if causality is multifaceted.

Table 6. Impacts of Non-Ratification

Issue	Specific impact	Implication
Legal uncertainty & foreign law	Parties default to foreign governing law, diminishing domestic authority and weakening bargaining power.	Contract interpretation depends on unfamiliar legal systems, increasing uncertainty and costs.
High transaction costs	Contracts require bespoke clauses and foreign law advice without the CISG.	Negotiation, consultation and arbitration costs rise, particularly burdening SMEs.
SMEs’ weak position	Limited legal literacy causes SMEs to accept unfavourable terms or avoid exports.	Asymmetry of information and lack of resources exacerbate vulnerability.
Negative investment climate	Absence of the CISG may signal lower legal certainty compared with ASEAN peers.	Investors may favour jurisdictions with harmonised rules; Indonesia risks being seen as less attractive.

3. Indonesia’s Readiness to Ratify the CISG

Assessing readiness involves evaluating substantive law, policy initiatives, regional experiences and institutional capacity. Substantively, CISG principles align with domestic doctrines of freedom of contract and good faith. Technical updates on contract formation, remedies and force majeure are nonetheless necessary.

Policy reforms demonstrate modernisation: the 2014 Trade Law broadens coverage of domestic and international trade; Government Regulation No. 80 of 2019 addresses electronic commerce, including licensing, data protection and online dispute resolution. These developments signal openness to international norms.

Regional examples offer lessons. Singapore ratified the CISG in 1996 with reservations, and scholars recommend lifting them to avoid uncertainty. Vietnam ratified the CISG in 2015 (effective 2017), citing reduced transaction costs and improved bargaining parity. These experiences inform the design of reservations, transitional measures and outreach.

Institutional capacity remains critical. Challenges include limited familiarity with international law among judges, arbitrators, lawyers and business actors; the need for training and dissemination; and the requirement for official translations and guidelines. Capacity-building must accompany legal harmonisation.

Academic support exists: the 2013 draft by the National Law Development Agency (BPHN) recommends ratification, highlighting that the CISG bridges civil and common law systems and can be adopted with reservations under Articles 92–96.

Table 7. Readiness Analysis

Aspect	Findings	Implications
Substantive law	CISG principles align with domestic doctrines; technical updates needed on formation, remedies and force majeure.	Compatibility exists but legislative refinement is required.
Policy initiatives	Trade Law No. 7/2014 and Government Regulation No. 80/2019 signal modernisation of trade and e-commerce regulation.	Domestic policies indicate readiness to embrace international norms.
Regional experiences	Lessons from Singapore’s reservation and Vietnam’s full ratification inform effective accession strategies.	Indonesia can learn from neighbours to structure accession effectively.
Institutional capacity	Limited legal literacy, need for training and official translations.	Training and dissemination programmes are essential.
Academic support	BPHN’s 2013 academic draft recommends ratifying the CISG with possible reservations.	Academic legitimacy supports accession and offers guidance on reservations.

4. Normative-Comparative Analysis

Gap analysis distinguishes three categories: compatible areas; areas with significant differences; and areas requiring legal and institutional updates. Compatible areas include foundational principles such as freedom of contract and good faith, basic obligations of sellers and buyers and consumer protection in substantive terms. Article 1338 of the Civil Code, which recognises contracts as binding law requiring good faith performance, harmonises with the CISG’s emphasis on good faith and uniformity (Article 7).

Significant differences arise in contract formation, remedies and force majeure. The Civil Code’s formal requirements contrast with the CISG’s functional offer–acceptance regime. The lack of differentiated remedies in domestic law contrasts with the CISG’s graded approach. Force majeure provisions in the Civil Code lack the operational clarity of Article 79 of the CISG. Modernising these areas demands legislative updates and interpretative guidance.

Areas requiring updates include cross-border consumer protection, standardised arbitration clauses and dispute resolution mechanisms, integration of sharia-based norms with international trade practices and comprehensive e-commerce regulation. Indonesia should address these gaps through amendments, implementing regulations, judicial guidelines and model clauses. Existing academic proposals provide a roadmap for strategic harmonisation and capacity-building.

Table 8. Gap Analysis Matrix

No.	KUH Perdata provision	CISG provision	Gap / issue	Recommended response
1	Art. 1320: requires consent, capacity, definite object and lawful cause.	Arts. 14–24: offer and acceptance; acceptance by conduct; counter-offers.	Formal validity emphasised domestically;	Recognise acceptance by conduct in international contracts through legislation

No.	KUH Perdata provision	CISG provision	Gap / issue	Recommended response
			functional formation emphasised in the CISG.	or model clauses; provide judicial guidance.
2	Art. 1338: contracts bind parties and must be executed in good faith.	Art. 7 and Part III: good faith; detailed obligations of seller and buyer.	Principles align but domestic law lacks technical guidance.	Issue interpretative guidance linking domestic good faith with CISG terminology.
3	Arts. 1243, 1266–1267: remedies require notice; rescission and damages; no price reduction.	Arts. 45–50, 61–64: performance, damages, avoidance, repair, replacement, additional time, price reduction.	Limited and inflexible remedies domestically.	Introduce alternative remedies and additional time provisions via amendments or model clauses; train judges on damages.
4	Art. 1245: force majeure excuses performance; no notice or mitigation.	Art. 79: exemption for impediments beyond control; notice and mitigation required; hardship addressed in practice.	Domestic law is generic; the CISG defines conditions.	Legislate notice and mitigation requirements; develop model hardship clauses; update judicial guidance.
5	General provisions on delivery and risk in the Civil Code are limited.	Arts. 30–33; 66–70: delivery obligations and passing of risk rules.	Domestic law lacks precise delivery schemes and risk transfer rules.	Introduce technical rules through regulations or guidelines; encourage INCOTERMS and CISG-compatible clauses.

V. Conclusion

Indonesia urgently needs to strengthen legal certainty in international trade. Domestic contract law, rooted in the Civil and Commercial Codes, is not fully responsive to the dynamics of global and digital commerce. The CISG offers a modern, harmonised framework that can reduce legal barriers and transaction costs, yet Indonesia has not ratified it. Businesses therefore rely on foreign law or intricate arbitration clauses. Significant differences between domestic law and the CISG relate to contract formation, remedies and force majeure, whereas compatible areas include freedom of contract and good faith.

Indonesia's readiness to ratify the CISG rests on compatible normative foundations, ongoing regulatory reforms and academic support. Challenges include capacity constraints and uneven legal literacy. Experiences from ASEAN neighbours—Singapore and Vietnam—demonstrate that ratification can enhance legal certainty and competitiveness when coupled with capacity-building programmes. Strategic harmonisation and phased adoption are advisable.

Recommendations: (1) ratify the CISG promptly with declarations permitted under Articles 92–96 to facilitate a smooth transition; (2) prepare transitional regulations and model contract clauses to guide practitioners before comprehensive code amendments; (3) implement extensive training and dissemination programmes for judges, arbitrators, lawyers, academics and business actors, particularly SMEs, including reliable translations of the CISG; (4) establish international cooperation with ASEAN states that have ratified the CISG to share best practices; and (5) enhance university curricula on international business law to produce a workforce proficient in global trade. These measures will enable Indonesia to adopt the CISG effectively, improve legal certainty in international commerce and boost national competitiveness.

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