

Complete the Law on Contracts for Sale and Purchase of Goods in accordance with Vietnamese Law*

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Abstract

This study explores the role of economic law in promoting Vietnam's economic growth and global integration, particularly focusing on the legal framework governing international contracts for the sale of goods. Using a qualitative research method with a normative-juridical and comparative approach, the study analyzes legal documents, case studies, and expert opinions to identify weaknesses in Vietnam's current economic law system. Through in-depth interviews with legal scholars, business practitioners, and policymakers, as well as content analysis of international trade agreements, the research examines how inconsistencies in legislation and differences in legal interpretation often lead to contractual disputes and economic inefficiencies. The findings reveal that improving Vietnam's economic law requires not only legislative reform to ensure consistency, transparency, and conformity with international legal standards, but also enhanced legal literacy among enterprises. By understanding and applying the law correctly, businesses can better safeguard their rights and optimize their participation in international trade. The research highlights the need for comprehensive legal education, institutional support, and harmonization efforts to strengthen Vietnam's commercial legal infrastructure. Ultimately, the study concludes that aligning Vietnam's economic law with international norms will promote more effective and sustainable global economic integration, boost investor confidence, and contribute significantly to the nation's long-term economic resilience and competitiveness in the global market.

Keywords: Sales contract; Regulate contracts; Improve laws; Protect rights; Adjust contracts

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A. INTRODUCTION

The developed economy not only creates conditions for diversity in social relations but also stimulates business activities and commodity transactions. To ensure fairness and efficiency in these transactions, the sale and purchase contract of goods has become an essential tool for parties to negotiate and commit to its terms and conditions. The buying and selling of goods is a primary activity in commercial operations, bridging the gap between production and consumption, not only within the borders of each country but also extending across different countries worldwide when two parties (commonly referred to as the buyer and the seller) engage in the buying and selling of goods, a form of agreement arises, which can be oral, written, or through email, fax, etc., known as the sale and purchase contract of goods.

Sale and purchase contracts of goods are diverse, regulated by many legal sources, and are prevalent in the business activities of individuals and organizations. In our legal system, there are specific regulations governing contractual relationships, such as the Commercial Law 2005 and the Civil Law 2015. Sale and purchase contracts of goods appear in various forms, from simple oral agreements to formal written contracts or the use of electronic means such as email and fax. This raises questions about the binding nature and enforcement of these contracts, as well as the rights and obligations of the parties involved in the transaction. Therefore, it can be said that sale and purchase contracts of goods are indispensable in business activities.

Although Vietnamese law has regulations on sale and purchase contracts of goods, the rapid development of commercial activities in recent times still presents many legal challenges ([Nguyen & Duong, 2018](#)). The current regulations are not clear enough or lack specific guidance, especially when disputes arise ([Tinh, 2019](#)). Therefore, researching sale and purchase contracts of goods in the context of Vietnamese law will help understand how these regulations are applied in practice and provide recommendations to improve both the legal framework and practical application.

This study aims not only to clarify theoretical issues regarding sale and purchase contracts of goods but also to improve business practices and reduce unnecessary disputes and risks in the transaction process. This will contribute to promoting the sustainable development of the economy and creating favorable conditions for both organizations and individuals participating in commercial activities and commodity transactions. ([Nguyen & Duong, 2018](#))

Literature Review

1. Concept of Sale and Purchase Contract of Goods

Goods, in a broad sense, are understood as the products of human labor created for exchange to satisfy socially oriented needs. Human needs are diverse and constantly changing, so goods continue to develop in richness and diversity. According to the current legal definition in Article 3, Clause 2 of the Commercial Law 2005: “Goods include all types of property, including real estate formed in the future, and things attached to the land” ([National Assembly of the Socialist Republic of Vietnam, 2005a](#)). Also, in the same Article 3, it is stipulated: “The sale and purchase of goods is a commercial activity, whereby the parties are obliged to deliver goods, transfer ownership rights of goods to the buyer, and receive payment; the buyer is obliged to pay the seller, receive the goods, and the ownership rights of the goods according to the agreed terms.” ([National Assembly of the Socialist Republic of Vietnam, 2005a](#))

In today's market economy, where civil economic relations are becoming increasingly complex and extensive, the buying and selling of goods is a primary activity in commercial operations, manifested in the form of sale and purchase contracts. The sale and purchase contract of goods plays an important role in both the economy and social life, serving as a tool and foundation for building and implementing business plans. It is also the basis for resolving disputes and expanding diplomatic relations with countries worldwide.

2. Legal Sources Governing Sale and Purchase Contracts of Goods

The legal documents governing contracts in general and sale and purchase contracts of goods, in particular, are stipulated in various laws and regulations, including the Law on Economic Contracts of 1989, the Civil Law of 1995, the Commercial Law of 1997, the Commercial Law of 2005, the Civil Law of 2005, and the Civil Law of 2015. In these documents, there are inconsistent regulations and no provisions regarding the relationship between these documents, leading to confusion and difficulties for both applicators and state management agencies when applying legal documents to contracts ([Nguyen & Ho, 2017](#); [Nguyen et al, 2022](#)). As economic relations become more prevalent and diverse, these laws are no longer suitable. Therefore, perfecting and amending the regulations of the law on contracts is an urgent and essential issue in the current context.

The Commercial Law of 1997 was amended by the new Commercial Law issued by the National Assembly on June 14, 2005, effective from January 1, 2006. This was the first legal document regulating contractual relations in the field of commercial economics. According to the Commercial Law of 2005, commercial contracts can be divided into two types: contracts for the sale of goods and contracts for the provision of services.

The Civil Law of 2005 was introduced to replace the Civil Law of 1995 and the Economic Contract Law of 1989. This is considered a unified law, applying to all civil, economic, and commercial relations, ensuring legal uniformity, especially in regulating contractual relations. According to this law, the provisions of the Civil Law of 2005 regarding civil contracts have general applicability to regulate the entire scope of civil contracts. However, in practice, the application of the law on sale and purchase contracts of goods based on the provisions of the Civil Law of 2005 also faces many issues ([National Assembly of the Socialist Republic of Vietnam, 2005b](#)). Due to conflicting regulations, a lack of uniformity, and many unapplied legal provisions, the effectiveness of the law has not been fully realized, especially when various issues arise without corresponding legal provisions. To address this situation, on November 24, 2015, the Civil Law of 2015 was enacted by the 13th National Assembly and officially came into effect on January 1, 2017. The Civil Law of 2015 includes legal provisions that guide the implementation to establish a legal framework for sale and purchase transactions ([National Assembly of the Socialist Republic of Vietnam, 2015](#)).

3. Overview of the Content of the Legislation Governing the Sale and Purchase Contract of Goods

a. Parties to the Sale and Purchase Contract of Goods

The sale and purchase contract of goods is established by the main entities known as merchants. According to the definition in the Commercial Law of 2005, a merchant is a legally formed business entity that engages in continuous, independent commercial transactions and is registered for commercial activities (Article 1 of the Commercial Law of 2005). Merchants, whether Vietnamese or international, are the parties involved in international sale and purchase contracts of goods (for direct contracts). In addition to merchants, individuals or entities that are not merchants can also be parties to sale and purchase contracts of goods. The activities of non-merchant entities that are not for commercial purposes in these contracts must comply with the Commercial Law (Clause 3,

Article 1 of the Commercial Law of 2005). This provision in the Commercial Law is compatible with economic theory on the application of commercial law in commodity transactions ([National Assembly of the Socialist Republic of Vietnam, 2005a](#)).

b. Content of the Sale and Purchase Contract of Goods

The content of a contract encompasses all agreed-upon terms between the parties and those stipulated by law for that contract. The sale and purchase contract of goods only has legal validity when it meets at least the minimum conditions regarding content as prescribed by law. In the absence of any of these factors, the contract will be invalid. In practice, adverse consequences often arise from ambiguity or completeness in the contract content, leading to conflicts and unforeseen damages. Therefore, during the drafting of the contract content, the parties need to consider and specify every situation clearly to minimize risks.

The rights and obligations of the parties in the sale and purchase contract of goods are mainly regulated by Articles 34 to 62 of the Commercial Law of 2005. An analysis of these provisions shows their similarity to the corresponding provisions in the United Nations Convention on Contracts for the International Sale of Goods (CISG). One reason for this similarity could be that, during drafting, Vietnamese legislators referred to the CISG ([United Nations, 2010; Schwenzer, 2016](#)). The object of the sale and purchase contract of goods is a crucial factor. This is determined through the specific name of the goods. In sale and purchase contracts of goods, the parties often need to clearly define the name of the goods using common names or trade names to avoid misunderstandings about the object of the contract.

The quantity of goods also needs to be specified in the contract, particularly using commercial measurement units such as pieces, sets, kilograms, meters, square meters, cubic meters, or any unit suitable for the type of goods. The quality of the goods is also crucial as it defines the object of the contract and is often related to the price. Parties may use samples, standards, descriptions, or brands to determine the quality of the goods. The price of the goods and the payment method should also be agreed upon and clearly stated in the contract. The payment method determines how the buyer must pay the seller, depending on the parties' agreement and the actual conditions. The time, place, and method of contract performance need to be clearly defined to ensure the contract is executed with the proper object, at the right place, and at the agreed-upon time. Finally, the contract should also stipulate penalties for violations to ensure the accuracy and compliance of contract terms. Penalties for violations only occur when agreed upon in the contract, and the penalty amount usually does not

exceed 8% of the value of the contract obligation being violated.

c. Form of the Sale and Purchase Contract of Goods

The sale and purchase contract of goods is an agreement between the parties. From a legal perspective, adhering to the contract form is mandatory once the law recognizes it, as it helps limit risks for the parties involved in the contract relationship. According to the provisions of the Civil Law of 2015, the form of the sale and purchase contract of goods can be executed verbally, in writing, or determined by specific conduct ([Nguyen et al, 2022](#)). For types of sale and purchase contracts of goods that must be made in writing according to the law, parties must comply with those provisions. The written form includes electronic notices, telex, fax, data messages, and other forms.

The contracting parties choose the form of the contract unless the law has mandatory form requirements or specific procedures. Regarding the CISG, it emphasizes respecting the principle of freedom of contract form, meaning the form of the contract can be in writing, spoken words, or established by conduct, even provable by witness testimony: "A contract of sale need not be concluded in or evidenced by writing and is not subject to any other requirement as to form. It may be proved by any means, including witnesses" ([United Nations, 2010](#)). This is a fundamental difference between Vietnam and the CISG. Originating from a multilateral convention aimed at regulating private international relationships, the CISG highly values the principle of the parties' freedom, allowing them to choose a suitable form of contract that meets their conditions. The form of the contract is not a significant issue that the CISG needs to address because this form will not affect other legal provisions in the system (as the CISG is a single convention), such as the provisions of Vietnam's Commercial Law.

The difference in the form of the contract does not create a sharp conflict between Vietnamese law and the provisions of the CISG. However, this still raises specific issues. Vietnamese legislators will need to choose between maintaining the form of the contract or adapting it to the provisions of the CISG. Based on the experience of other countries, to avoid unnecessary misunderstandings, all agreements are usually recorded in writing. This is especially true for international sale and purchase contracts, where the parties often do not share the same language or legal system, and have commercial headquarters in different countries. Therefore, if the contract is only expressed verbally or through gestures, it will lead to difficulties in proving ([Nguyen, 2014](#)), so many member countries have implemented this reservation upon joining: China, Argentina, Belarus, Chile, Hungary, Paraguay, and Ukraine.

d. Implementation of the Sale and Purchase Contract of Goods

The execution of sale and purchase contracts for goods and other types of contracts differs in terms of the obligations and rights of the parties involved. Here are some important points to understand the differences: Single-service contract (Article 409 of the Civil Code of 2015): In a single-service contract, one party must fulfill its obligations as agreed upon, and the other party has the right to demand performance of the obligation from the partner. This type of contract involves rights and obligations belonging to only one party. Sale and purchase contract of goods (Article 410 of the Civil Code of 2015): This is a form of a single-service contract in which the parties have agreed on the deadline for fulfilling the obligation, and each party must fulfill its obligation within the specified timeframe, without delay due to the other party's failure to perform the obligation. Sales and purchase contracts are often related to buying, selling, and payment. Fulfillment of obligations in the sale and purchase contract of goods: When executing the sale and purchase contract of goods, each party in the contract is bound by the obligations of the other party. In this case, there are two main obligations: the seller's obligation to deliver the goods to the buyer and the buyer's obligation to pay the purchase price to the seller. This is an interactive and closely related process between the parties.

Rights and benefits in the sale and purchase contract of goods: When executing the sale and purchase contract of goods, the parties aim at their own rights and benefits rather than those of a third party. These rights and benefits include receiving goods of the correct quality and quantity, as well as paying the purchase price on time and in the agreed-upon amount. The parties can also agree to modify or terminate the contract if necessary. Termination of the contract (Article 416 of the Civil Code of 2015): The Civil Code specifies cases for terminating a contract, including: The contract has been entirely performed; Agreement on termination by the parties; When an individual who entered into the contract dies or another legal entity terminates; The contract cannot be performed because the object of the contract no longer exists, and the parties may agree on a replacement or compensation for damages. These points help to understand the differences between implementing a sale and purchase contract for goods and a single-service contract, as well as how the rights, obligations, and benefits of the parties in the contract are regulated and executed.

B. METHODS

This research employs a qualitative approach that combines literature-based and juridical methods to explore and propose improvements to Vietnam's

legal framework on contracts for the sale of goods. Unlike quantitative studies that rely on numbers and data sets, this research focuses on a deeper and more interpretative understanding of the principles, norms, and real-world practices that shape economic law in Vietnam. Through the literature approach, the study carefully examines a wide range of academic sources—such as legal textbooks, scholarly articles, and international conventions, including the United Nations Convention on Contracts for the International Sale of Goods (CISG).

This process allows the researcher to uncover the theoretical roots and historical evolution of trade law, comparing how Vietnamese legislation aligns or diverges from international legal standards. It also helps to reveal where inconsistencies or gaps in the country's legal system may hinder fair and effective trade practices. Meanwhile, the juridical (normative) approach provides a closer look at Vietnam's current laws, decrees, and judicial interpretations governing trade and commerce. By analyzing these legal texts, the research evaluates whether the existing framework is coherent, transparent, and enforceable.

This method also makes it possible to assess how well Vietnamese law harmonizes with international best practices and to identify areas that require reform. In addition to document analysis, the study incorporates qualitative interviews with legal scholars, policymakers, and business practitioners. Their insights enrich the research with real-world perspectives on how laws are applied and where businesses face challenges in enforcing commercial contracts. By combining theoretical exploration and practical understanding, the study not only contributes to academic discussions on economic law but also provides concrete recommendations for policymakers. The findings emphasize the importance of building a transparent, consistent, and internationally compatible legal system—one that can strengthen investor confidence, enhance Vietnam's competitiveness, and support its sustainable integration into the global economy.

C. RESULTS AND DISCUSSION

1. Implementation Status of Contracts and Resolution of Sales of Goods Contract Disputes in Vietnam in Recent Years

In the context of international economic integration, to build a unified global market for both tangible and intangible goods, eliminating trade barriers to facilitate the smooth flow of goods globally toward "borderless trade activities between countries", Vietnam has been formulating appropriate economic policies and strategies while striving to improve its legal system. The Civil Code of 2015 and the Commercial Law of 2005 introduced new provisions that align

with international commercial contract laws and practices in the buying and selling of international goods, enabling Vietnamese traders to engage in commerce more effectively. ([Nguyen & Ho, 2017](#); [Vu & Nguyen, 2018](#))

In recent years, the Vietnamese economy has shown remarkable growth compared to previous years. According to newly released statistics from the General Statistics Office, in 2017, the economic growth rate reached 6.81%, surpassing the targeted 6.7% set by the National Assembly and marking the highest growth rate in the past decade. Notably, the economy recorded growth rates of over 7% in the last two quarters of the year ([World Bank, 2024](#)). Alongside the increasing number of contracts for the sale and purchase of goods between merchants and enterprises, the resolution of disputes arising from these contracts has also risen significantly. The challenge is to enhance the effectiveness of contracting and implementing sale and purchase contracts by ensuring they are established promptly, executed thoughtfully, and lead to optimal profits while avoiding undue damages. This primarily depends on the existing legal system and relies heavily on businesses' ability to comprehend and apply legal principles. The practical situation indicates that there are significant limitations in the legal understanding of many businesses. Although contract law is evolving to meet the needs of the economy and global contract laws, numerous issues still require research and improvement.

In current contracts for the sale and purchase of goods, domestic businesses often opt for the competent People's Court as the dispute resolution authority. This is because these businesses are not accustomed to using arbitration for resolving contract disputes. They believe that court decisions hold higher legal value than arbitration, and there is also a lack of trust in the enforceability of arbitral awards compared to court decisions. In contrast, foreign businesses, when entering into contracts or providing services to domestic enterprises, tend to choose arbitration over the court, as they are well aware of its advantages. However, they often prefer foreign arbitration to Vietnamese arbitration, with only a few opting for court litigation to resolve disputes.

Several factors contribute to disputes arising from contracts for the sale and purchase of goods. In addition to objective factors like inconsistent and outdated legal regulations, subjective factors from businesses also play a crucial role. For instance, subjectivity in establishing contracts: Many large-value contracts for the sale and purchase of goods are loosely drafted or even undocumented, relying solely on reputation and longstanding cooperation. In practice, numerous contracts involving substantial quantities are agreed upon through phone conversations or brief notes on a few pages. Disputes arise

because signatories lack the authority to represent the parties or because the contracts contain provisions that legal regulations do not allow. In such cases, execution may lead to contract alterations, cancellations, and ensuing disputes. Many enterprises lack risk prevention measures or do not fully understand the sanctions and protective measures available to them. Violations related to quality, quantity, type, and accompanying documents lead to disputes. In some instances, due to mutual trust, delivery of goods or payment occurs without proper documentation, making dispute resolution challenging.

In civil cases, the burden of proof lies with the requesting party, and without official documentation confirming the delivery of goods or payment, proving these aspects can be exceptionally difficult. Thus, collecting and perfecting evidence supporting the lawsuit becomes a challenging task. Therefore, professional entities are needed to assist parties in gathering supportive evidence for a valid claim. Besides, objective factors such as market dynamics, pricing, tax policies, and financial changes during different periods significantly impact the interests of the parties. For example, a slight fluctuation in exchange rates can lead to losses for businesses, resulting in non-payment, an inability to pay, or even a refusal to purchase goods as agreed in the contract. Despite the improvements introduced by the Civil Code of 2015 and the Commercial Law of 2005, there are still considerable challenges in legal regimes related to commercial contracts specified in the 2005 Commercial Law. This has led to numerous breaches of sales and purchase contracts because the parties failed to reach a consensus on the contract content during execution.

2. Practice and Challenges in Applying Legal Principles to Resolve Disputes in Purchase and Sale Contracts

Purchase and sale contracts for goods are formed by accepting an offer or by demonstrating a complete consensus of wills among the parties. In reality, traders and businesses independently establish such contracts by seeking partners and negotiating to define rights and obligations in their buying and selling relationships. These entities have the right to choose their partners, be they traders or non-traders. However, businesses must carefully select contract counterparts to ensure the legitimacy of purchase and sale contracts. Attention should be given to the issue of contract representation. Since the Commercial Law of 2005 does not address this matter, the provisions of the Civil Code should be applied. According to the 2015 Civil Code, the authority to establish and carry out civil transactions is vested in legal representatives acting either as legally appointed representatives or representatives by authorization. Legal entities

have the right to authorize individuals or other legal entities to establish and execute civil transactions. The right to representation is established through delegation between the represented and the representative, based on the decision of the competent state authority, the charter of the legal entity, or legal regulations.

In practice, many contracts are signed by individuals without the necessary authority. When conflicts arise, companies often choose not to fulfill contracts, claiming that the signatory lacked the proper authority, thereby avoiding responsibility. This situation results in significant harm to partners, especially in the case of high-value contracts. Companies argue that the signatory did not act on behalf of the company, an individual signed the contract, or there is an inability to take responsibility for significant damages to the partner, leading to a refusal of compensation.

The primary focus of commercial activities in our market is on service and light industry ([Nguyen & Duong, 2018](#)). Consequently, the subject of purchase and sale contracts for most enterprises revolves around raw materials, machinery for industrial production, and products that serve the service industry. The objective when establishing cooperative relationships and engaging in the sale of goods is to seek profits that are legal and conform to societal ethics. The content of the contract is the result of negotiations between the parties, encompassing crucial terms such as the name of the goods, quantity, quality specifications, packaging and labeling, delivery and acceptance of goods, price, payment methods, measures to ensure contract performance, and the responsibilities regarding material breaches.

The object of the purchase and sale contract is the goods themselves. The involved parties often dispute whether the agreed-upon object aligns with the contractual terms, the quality of the goods, compliance with standards, and disputes regarding units of measurement. Additionally, imprecise or unspecified terms in the contract can lead to misunderstandings. Therefore, when entering into contracts, enterprises must carefully read each provision, specifying in detail and clarity the object of the contract, the quality, quantity, and weight of the goods, as well as technical specifications and standards.

Determining and agreeing upon prices is of utmost importance in the execution of purchasing and selling goods. Parties involved need to agree on fixed prices and explicitly state them in the contract. However, risks such as market price fluctuations, currency used for payment, disputes over unloading and transportation costs, methods of payment, and methods of ensuring the contract through guarantees may still arise. Therefore, the parties must provide

detailed, specific, and flexible terms that are appropriate for each transaction.

In the present economic difficulties, situations often arise where, after receiving the stipulated quantity of goods, parties either refuse to make payments or do not pay the full value of the received goods. Disputes become more complicated and challenging to resolve when parties allow cases to linger unresolved. During the process of goods exchange, issues may arise from the parties' trust in each other, deviations from contractual provisions, and a lack of evidence regarding full delivery and quality assurance. The buyer's unwillingness to make payments or to pay an incomplete amount will adversely affect the seller's rights and interests. For goods of relatively or significantly valuable items, sellers often demand that buyers make advance payments or prepayments equivalent to a portion of the purchased goods' value. The seller retains this prepayment until making purchases or orders from manufacturers.

Penalty clauses can only be applied if the parties have specific agreements in the contract. This means that penalties for violations are agreed upon between the parties; one party cannot require the other to bear penalties if there is no agreement in the contract. Article 301 of the Commercial Law of 2005 limits the right to agree on penalty amounts. Specifically, "The penalty for violating contractual obligations or the total penalty for many violations agreed upon in the contract shall not exceed 8% of the value of the contractual obligations violated" ([Nguyen & Ho, 2017](#)). Therefore, when parties are negotiating penalty amounts, they must adhere to the provisions of the Commercial Law and select penalties within the permissible range, which is 8% or less of the value of the violated contractual obligation. If the parties agree to a penalty exceeding this limit, the portion exceeding 8% is considered a violation of legal prohibitions and is ineffective.

Force majeure events are those that occur objectively, cannot be foreseen, and cannot be overcome despite applying all necessary measures within the allowed capacity. In cases where a party is unable to perform a civil obligation due to a force majeure event, they are not held liable unless there is a different agreement or legal regulation (Article 302 of the Civil Law of 2005). Article 294 of the Commercial Law stipulates that the party violating the contract is exempt from liability in the event of a force majeure. The provision related to force majeure aims to help the parties anticipate circumstances that allow for exemption from responsibility if a breach of contract occurs due to a force majeure condition during contract execution. Therefore, when drafting contracts, clear agreements on force majeure must be included to specify the conditions for exemption from responsibility if such conditions occur. The parties may also

specify certain events as force majeure events in advance to mitigate their responsibility.

Unlike penalty issues, liability for damages arising from a breach of contract occurs even when parties have not explicitly agreed on the matter. According to Article 302 of the Commercial Law of 2005, the party violating the contract must compensate for losses caused by the breach of contractual obligations. There are three conditions for the responsibility to compensate for damages arising from a commercial contract breach: a). There is a violation of the contract; b). There are actual losses; c). There is a causal relationship between the violation of the contract and the losses arising from the breach. The party violating the contract must compensate for the actual losses suffered by the other party due to the breach. Therefore, clear agreements on compensation for damages must be included in the contract to ensure that the parties' responsibilities are adequately addressed and that disputes can be resolved fairly and smoothly.

According to legal regulations, enterprises and traders can choose any form of contract to enter into. Therefore, depending on each case, each partner, each customer, traders, and businesses can sign contracts in various forms such as written documents, fax, email, or solely through the telephone for negotiations... In the practical activities of buying and selling goods in Vietnam, businesses typically opt for written contracts when dealing with large enterprises or contracts involving a significant volume and value. The selling party will present the goods, provide a price quote, introduce the product and its quality, and send these details to the buyer. Subsequently, the parties negotiate terms, the partner drafts the written contract, and both parties proceed to sign the contract. For small and medium-sized traders and businesses with long-term, trust-based relationships, the process of entering into purchase and sale contracts is more straightforward. The parties often agree and negotiate on the contract's subject, quantity, quality, price, payment methods, etc., through phone calls, email, or fax, as per the initial written agreement (if any) or by drafting a simple contract outlining the quantity, price, and payment method. This facilitates a swift execution of the purchase and sale contract. However, the downside is that when businesses choose to form contracts via phone, email, fax, telex, or in writing, the agreed-upon content may lack specificity regarding the nature of the goods, and the rights and obligations of the parties are not guaranteed. In the event of a breach of contract by one party acting in bad faith, the legal rights and interests of the parties are not protected, which can lead to disputes.

The transfer of ownership rights and risk from the seller to the buyer

concerning goods in purchase and sale contracts is a highly complex and legally significant issue ([Vu & Nguyen, 2018](#)). Article 62 of the 2005 Commercial Law stipulates that if there is no other agreement or legal provision, ownership rights to goods are transferred from the seller to the buyer at the time the goods are delivered. In sections addressing the transfer of risk, such as Articles 57, 58, 59, 60, and 61, the concept of transferring delivered goods is also mentioned. However, the Commercial Law does not clearly specify when the goods are considered delivered, either legally or in practice.

Statute of Limitations for Lawsuits: Article 319 of the Commercial Law stipulates that the statute of limitations for commercial disputes is 2 years from the time the legal rights and interests are infringed upon. In this context, the issue of fault is not addressed. According to the legal perspective in Vietnam regarding contracts, faults are considered one of the bases for determining the liability of the party breaching the contract, but there is no adjustment of the relationship between fault and the deadline for complaints and lawsuits. Unlike Vietnamese law, international commercial law, particularly the Vienna Convention of 1980, does not consider fault as a basis for determining liability. However, it clearly regulates the relationship between the degree of fault and the deadline for complaints and lawsuits. According to the principle, the party that has been violated loses the right to complain if it does not adhere to the complaint deadline as stipulated by law. However, to ensure fairness for the parties in purchase and sale contracts, the Convention further specifies that the complaint deadline does not apply in cases of intentional contract violations. This means the damaged party retains the right to complain, even if the complaint deadline has passed, provided the contract violation was intentional. Article 39.2 of the Vienna Convention of 1980 states that in any case, the buyer loses the right to complain about goods not conforming to the contract if they do not notify the seller within 2 years from the actual delivery date. However, Article 40 states that if the seller knew or could not have been unaware that the goods did not conform to the contract but did not inform the buyer, the buyer retains the right to complain even if the complaint deadline has passed. Since Vietnamese law lacks specific regulations regarding intentional breaches of contracts, the Commercial Law of Vietnam should include provisions in line with the principle of good faith and honesty in contract performance. Therefore, it should supplement this provision accordingly.

3. Enhancing Legal Regulations on the Implementation of Purchase and Sale Contracts

To effectively implement purchase and sale contracts, it is crucial to review domestic legal documents governing the sale of goods, compare them with legal provisions, and create favorable conditions for the lawful execution of contracts by businesses. This should align with international practices and norms. One essential task is to harmonize legal contract provisions with the separation of contractual relations in the Civil Code and consolidate specialized regulations under the law ([Durovic, 2018](#)). This should be followed by a systematic restructuring to establish a separate law governing advanced contract relations in line with global standards, referred to as the Unified Contract Law. Learning from other nations' experiences in developing the Unified Contract Law is necessary to improve the current legal framework for purchasing and selling goods domestically. In practice, deficiencies in legal regulations always impede a nation's development and integration, creating difficulties in contract negotiation, execution, and dispute resolution. Therefore, concerning purchase and sale contracts, the following legal regulations need improvement:

Firstly, Regulating the Concept of "Fundamental Breach". The 2005 Commercial Law lacks a definition of a fundamental breach. Therefore, adopting the 1982 Vienna Convention's definition is suggested, requiring a fundamental breach to meet three conditions: (i) A breach of the contract; (ii) the breach leading to undesirable consequences for the injured party; and (iii) the breaching party being at fault unintentionally, not foreseeing the consequences of the breach. Clear regulations like these enhance the effectiveness of the application, reducing disputes and facilitating dispute resolution.

Secondly, Determining Compensation for Damages. Vietnamese law needs specific regulations on determining damages for compensation to avoid intentional contract violations for gains. Therefore, the Commercial Law should supplement provisions stating that if the violator benefits from the breach, the injured party has the right to claim compensation, along with other damages, not less than the gains obtained by the violator. Such regulations establish a legal framework for all parties involved in executing purchase and sale contracts, ensuring they fulfill their contractual obligations actively and promoting positive engagement in contractual relationships. Additionally, provisions should be in place to determine damages resulting from a loss of reputation, which are considered rightful gains and subject to compensation. This regulation aims to maximize the protection of the rights of businesses and individuals engaged in legitimate business activities. The value of an entity is not only derived from its assets but also shaped by its reputation. However, the challenge is determining the extent of reputational damage and how compensation is calculated. Currently, there is no mechanism to determine an individual or business's

reputation level. Globally, countries assess a business's value based on various factors, including its reputation. Therefore, Vietnam should license and acknowledge certificates from organizations that assess business reputations, providing a basis for determining the extent of reputational damage and reasonable compensation. It is believed that including reputation damage as a basis for claiming compensation for damages is a necessary and progressive regulation, contributing to the respectful participation of parties in contractual relationships and the overall economic and social development ([Le, 2024](#)). To achieve this, legal adjustments related to the mechanism for determining the extent of damage resulting from a decrease in reputation are necessary.

Thirdly, Adjusting Regulations on Penalties for Violations and Compensation for Damages. Considering penalties for violations as a form of contractual responsibility, the restriction on the current penalty amount of 8% of the breached obligation's value should be removed. Instead, the Commercial Law should stipulate that the penalty amount be agreed upon by the parties when signing the contract. The court can then adjust this penalty based on the actual damages proven by the parties, either lowering or raising it from the agreed-upon penalty amount. Such changes are necessary to meet the demands of commodity transactions, serving as compensation for the losses the injured party must bear. However, they can still be adjusted if the penalty is too high or too low compared to the actual damages, provided they are proven. This ensures effectiveness in damage remediation and prevents unreasonable agreements and profiteering by related parties regarding violation penalties. There are different opinions on applying either damages compensation or violation penalties, and some suggest applying both. From the researcher's perspective, it is advisable to accept both penalty imposition and damages compensation as prescribed by the Commercial Law. However, adjustments should be made to the agreement on violation penalties and the determination of penalty amounts to ensure practical law enforcement.

The new Civil Code of 2015 has been recently enacted and is not extensively applied in practice. Therefore, this thesis does not address solutions for perfecting the law but provides guidance and organization for implementing the provisions of the Civil Code of 2015. The Civil Code of 2015 contains many broadly stated provisions that need clarification, such as civil transactions rendered void due to forgery (Article 124); the time of establishing ownership rights (Article 161); risk assumption for assets (Article 162); civil liability for breach of obligation (Article 351); and the voidance of contracts due to an impossible object (Article 408).

To ensure the general provisions of the Civil Code of 2015 and specific legal provisions on the Unified Purchase and Sale Contract are effectively implemented, decrees and guiding circulars are necessary for the remaining general provisions. Simultaneously, amendments and supplements to related laws in line with the spirit of the amended Civil Code of 2015 need to be carried out.

4. Solutions to Enhance the Effectiveness of Implementing Laws Regarding the Sale and Purchase of Goods

Firstly, Legal Awareness for Businesses in Signing and Implementing Sale and Purchase Contracts

This is perhaps a solution aimed at various components of society. It can be implemented through various methods. To build a socialist rule-of-law state in Vietnam, the 2013 Constitution affirmed: “The state manages society by the Constitution and the law” ([National Assembly of the Socialist Republic of Vietnam, 2013](#)). The first task is to promulgate laws, followed by organizing their implementation. In this regard, the task of disseminating and educating legal knowledge is considered a bridge between the state's policies, laws, and the people. The purpose of legal propaganda and education is to build legal awareness, instill trust in the law among the people, officials, and public servants, and foster a positive attitude in law enforcement. ([Nguyen, 2017](#))

Functional agencies need to disseminate and popularize laws to all citizens, effectively and substantively, avoiding formal and trendy propaganda. Avoid concentrating solely on statutes and regulations, neglecting guidance documents. Typical cases of disputes, especially in the field of real estate transactions, should be publicized in the media so that people are aware and learn from them. Combining legal propaganda with legal education is crucial. If done well, it will minimize disputes.

Business is a human activity, so business efficiency depends on the capabilities of the entrepreneur. In the complexity and challenges of the market economy, especially in Vietnam today, enhancing legal understanding, particularly of the law on sale and purchase contracts, is crucial for business officials. Enterprises need to regularly update legal information, establish legal departments, and use legal consulting services regularly and effectively. Business leaders should have a periodic plan for legal education on sale and purchase contracts. This will help businesses avoid unnecessary risks when entering into and implementing contracts.

Businesses need to carefully study the regulations of commercial contract laws, clearly defining the obligations of the parties. Research on sanctions for breaches of commercial contracts, especially an overall examination of the content, conditions, and obligations related to these sanctions, is necessary. In particular, when a violation occurs, businesses need to correctly determine the nature of that violation. Corresponding to each fundamental or non-basic breach of a commercial contract, there will be applicable sanctions. "A fundamental breach is a breach of a contract by one party causing damage to the other to the extent that the other cannot achieve the purpose of entering into the contract." One of the sanctions that parties can apply in the event of a fundamental breach is contract termination. Determining the nature of the violation will help businesses apply appropriate sanctions to protect their interests in cases of breach of commercial contracts.

Secondly, Providing Specialized Information Support from State Management Agencies to Businesses in Signing and Implementing Sale and Purchase Contracts.

In the context of commercial activities related to the sale and purchase of goods and other regulated transactions ([Nguyen & Duong, 2018](#)), merely aiming to improve legal provisions to be more detailed, specific, understandable, and applicable to all issues is insufficient. In addition to the legal framework, the mechanism for supporting the implementation of the spirit of the law is equally essential. In the business of buying and selling goods, not only is a solid legal system needed, but also many mechanisms to support the deployment and implementation that bring about efficiency. To achieve this, not only the state but also organizations and individuals in society need to be aware of and take practical actions in line with their roles and functions related to the law and the process of implementing sale and purchase contracts.

Enterprises are the subjects of sale and purchase contracts; therefore, they have full legal rights and obligations under the law on the sale and purchase of goods. One of these important legal obligations is that enterprises must fully observe the requirements of the law on sale and purchase contracts and apply the law in their business activities. However, the implementation of the law in the sale and purchase contracts of Vietnamese enterprises still has many shortcomings. The legal awareness and understanding of the law on sale and purchase contracts of a significant part of business managers is limited. The situation where enterprises neglect to study and implement the law is quite

common. Many enterprises do not habitually seek legal advice to apply and enforce the law, thereby preventing legal risks in the sale and purchase of goods.

The main reason for this situation is that the legal awareness and legal culture of the majority of owners and business management personnel are limited. In the enforcement organization, there is no mechanism or measures to support enterprises effectively. Therefore, it is important to research and determine mechanisms to support businesses in effectively implementing the law on sale and purchase contracts. From there, it is perceived that our country needs to build an information system between state management agencies and enterprises. Specialized agencies, such as the Department of Industry and Trade, trade management, and market management, should be responsible for providing enterprises with the necessary information upon request. This will help them understand the sale and purchase contracts they are about to sign and implement. Alongside this, it is necessary to establish and expand forms of legal education for businesses, such as seminars, consulting, building a dedicated website for legal dissemination, and legal education that allows businesses to update information, exchange, discuss, and find solutions for pressing issues in the process of legal enforcement of sale and purchase contracts.

Thirdly, Swift, Effective, and Timely Resolution of Disputes Arising from the Implementation of Sale and Purchase Contracts

In the context of an increasingly developed economy, disputes arising from sale and purchase contracts are becoming more diverse and complex. Moreover, since Vietnam joined the World Trade Organization (WTO), many economic relations have taken on new nuances. Corresponding to the diversity of these economic relations, disputes arising from sale and purchase contracts are increasingly varied and numerous. In Vietnam, parties often choose to resolve financial disputes through the court as a last resort to protect their rights and interests most effectively when negotiation and reconciliation mechanisms fail. Therefore, the Court plays a vital role. Furthermore, the Court is an institution of the State; its operation is a very special and highly skilled activity. Therefore, the trial activities of the Court must ensure fairness, speed, accuracy, and timely resolution to avoid case backlogs and prolonged resolutions, which cause inconvenience and fatigue to the parties involved. Therefore, it is necessary to enhance the effectiveness of resolving disputes arising from sale and purchase contracts through the Court, ensuring they are handled efficiently and promptly, to protect the rights and interests of enterprises and ensure a healthy business environment contributing to economic and social development.

The practical work of resolving disputes arising from sale and purchase contracts at all levels of the Court shows that one of the reasons leading to errors in judgments and decisions is the understanding and application of the law by judges, as well as the issuance of legal documents that have some points that are not complete and suitable for practice. Meanwhile, the guidance and explanation of the law by competent state agencies and the Supreme People's Court are either not timely or are only provided as official dispatches and conclusions by the Chief Justice at the Conference. Hence, the stability of those guidelines is minimal and lacks legal binding. Therefore, in the near future, it is necessary to amend and supplement legal provisions to align with practice, promptly issue explanatory documents, and provide unified guidance on the content and form (procedural law) in the trial process so that branches, agencies, and judges can understand and apply it. At the same time, it is necessary to increase the application of precedents in resolving disputes arising from sale and purchase contracts to ensure they are suitable and practical, contributing to reducing differences in judgments and decisions of courts at all levels.

Enhancing the effectiveness of implementing laws regarding the sale and purchase of goods is a complex process that requires the synchronous participation of many subjects. In addition to state management agencies, enterprises, and the judiciary also need to take practical actions to achieve efficiency in implementing the law on sale and purchase contracts. Thereby, it creates a healthy business environment, ensures the rights and interests of the parties involved in the sale and purchase contracts, and contributes to the sustainable development of the economy.

E. CONCLUSION

In the context of an increasingly market-oriented and globalized economy, Vietnam's participation in the WTO has opened up numerous new business opportunities and enriched commercial activities. To stand firm on the international stage, businesses need to build a domestic reputation and ensure effectiveness in signing and executing sales and purchase contracts. This vital activity cannot be overlooked.

Sales and purchase contracts play a crucial role not only for businesses but also in the economic management of the state. To gain a deeper understanding of this matter, the research focused on three main aspects: Firstly, the research clarified concepts and content related to sales and purchase contracts, including factors such as subjects, content, form, objects, and the

process of contract execution. Additionally, the study examined the legal framework governing sales and purchase contracts in the 2005 Commercial Law and the 2015 Civil Code, comparing Vietnamese law with similar regulations worldwide. Secondly, the research evaluated the changes in current law regarding sales and purchase contracts compared to previous regulations. It also analyzed current issues and difficulties that businesses face when applying the law on sales and purchase contracts in Vietnam. Through a review of specific cases, the study highlighted the obstacles and challenges in executing sales and purchase contracts. Finally, the author proposed several solutions to improve the legal system concerning sales and purchase contracts in Vietnam. The goal is to create a stable legal environment, ensure a healthy competitive environment, protect consumer rights, and promote practical commercial activities. This will help merchants sign and execute sales and purchase contracts more efficiently, thereby enhancing the effectiveness of Vietnam's legal system in this field.

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