

## CISG Advisory Council Opinion No. 6: Annex (Case Overview)

Country/ Arbitration	Court / Tribunal	Date	Docket No.	CISG- online No.	Details
Arbitral	Ad Hoc	15 March 1963  <b>Case Name:</b>  <i>Sapphire International Petroleums Ltd. v. National Iranian Oil Co.</i>			<ul style="list-style-type: none"> <li>The tribunal stated that damages for breach of contract are based on full compensation for economic loss.</li> <li><i>Reprinted in 35 I.L.R. 136 (1967).</i></li> </ul>
Arbitral	ICC	1 Jan. 1992	Case No. 7585	105	<ul style="list-style-type: none"> <li>The tribunal awarded damages to seller for storage costs of machinery for production line of foamed boards.</li> <li><i>Case Abstract and Commentary:</i> &lt;<a href="http://cisgw3.law.pace.edu/cases/927585i1.html">http://cisgw3.law.pace.edu/cases/927585i1.html</a>&gt;</li> </ul>
Arbitral	Arbitration Institute of the Stockholm Chamber of Commerce	13 July 1993	Interim Award of 17 July 1992 and Final Award of 13 July 1993		<ul style="list-style-type: none"> <li>The tribunal held the Chinese battery manufacturer liable for damages, because the loss of profit experienced by the Swedish buyer was foreseeable and a fair representation of prospective earnings during the relevant time period.</li> <li><i>Reprinted in pertinent part in XXII Y.B. Com. Arb. (1997).</i></li> </ul>
Arbitral Tribunal (Russia)	ICAC	21 Apr. 1994	61/1993		<ul style="list-style-type: none"> <li>The tribunal denied exchange rate damages, because changes in currency rates were the creditor's "domestic affair."</li> <li><i>Reprinted in pertinent part in Saidov, op. cit., p. 44 n.197</i></li> <li>&lt;<a href="http://cisgw3.law.pace.edu/cases/940421r1.html">http://cisgw3.law.pace.edu/cases/940421r1.html</a>&gt;</li> </ul>

Arbitral	ICC	1995	Final Award in Case No. 8362 of 1995		<ul style="list-style-type: none"> <li>• In this non-CISG case, the tribunal held that when calculating damages, the following "counterbalancing factors" are considered: while there must be a sound basis for calculation, the breaching party cannot escape liability simply because the amount of damages cannot be determined.</li> <li>• <i>Reprinted in pertinent part in XXII Y.B. Com. Arb. 164, 177 (1997).</i></li> </ul>
Arbitral	ICC	1996	Final Award in Case No. 78445 of 1996		<ul style="list-style-type: none"> <li>• The tribunal held the Indian manufacturer met its burden of providing reasonable proof of its lost profits, because the claimant only has to provide a "reasonable estimate of the loss, based on such elements as are available" and not prove them with absolute certainty.</li> <li>• <i>Reprinted in XXVI Y.B. Com. Arb. 167, 175 (2001)</i></li> </ul>
Arbitral	ICC	23 Jan. 1997	8611/HV/JK	236	<ul style="list-style-type: none"> <li>• The tribunal ruled that the question concerning the extent the aggrieved party has to prove that they suffered damages is a procedural matter beyond the scope of the Convention.</li> <li>• <i>Case Text, Abstract, and Commentary:</i> &lt;<a href="http://cisgw3.law.pace.edu/cases/978611i1.html">http://cisgw3.law.pace.edu/cases/978611i1.html</a>&gt;</li> </ul>
Arbitral	Arbitration Institute of the Stockholm Chamber of Commerce	1997	Case No. 107/1997		<ul style="list-style-type: none"> <li>• The tribunal held the seller's goods did not conform to the contract and awarded the buyer foreseeable damages including, the cost of storing and preserving goods, the cost of freight, insurance, and duties associated with delivery to customers.</li> <li>• <i>Case Text, Abstract, and Commentary:</i> &lt;<a href="http://cisgw3.law.pace.edu/cases/980107s5.html">http://cisgw3.law.pace.edu/cases/980107s5.html</a>&gt;</li> </ul>
Arbitral	Ad Hoc	4 May 1999	Final Award of 4 May 1999		<ul style="list-style-type: none"> <li>• The tribunal stated that if damages were limited to what the aggrieved party has spent in reliance on the contract, the</li> </ul>

		<b>Case Name:</b>  <i>Himpurna California Energy Ltd. V. P.T. (Persero) Perusahaan Listruik Negara</i>			breaching party would have an incentive to breach when the contract is no longer in their financial interest. <ul style="list-style-type: none"> <li>• <i>Reprinted in XXV Y.B. Com. Arb. 13, 83-84 (2000).</i></li> </ul>
Arbitral Tribunal  (Russia)	ICAC	27 July 1999	302/1996	779	<ul style="list-style-type: none"> <li>• The tribunal ruled that the Russian seller had failed to give the Swedish buyer notice of avoidance of the contract within a reasonable time after the seller knew or should have known the relevant facts.</li> <li>• <i>Case Text, Abstract, and Commentary:</i> &lt;<a href="http://cisgw3.law.pace.edu/cases/990727r1.html">http://cisgw3.law.pace.edu/cases/990727r1.html</a>&gt;</li> </ul>
Austria	Vienna Arbitral Tribunal	15 June 1994	SCH-4366	691	<ul style="list-style-type: none"> <li>• The court awarded damages to buyer for cost of storing rolled metal sheets before resale.</li> <li>• &lt;<a href="http://cisgw3.law.pace.edu/cases/940615a3.html">http://cisgw3.law.pace.edu/cases/940615a3.html</a>&gt;</li> </ul>
Austria	OGH	14 Jan. 2002	7 Ob 301/01t	643	<ul style="list-style-type: none"> <li>• The court held that the buyer was entitled to recover losses as a result of the seller's non-performance, including loss of foreseeable profits and the cost of repairing the defective goods. However, since the seller's contract excluded consequential damages, the buyer could not recover other damages it suffered in relation to its contract with another consumer.</li> <li>• <i>Case Text, Abstract, and Commentary:</i> &lt;<a href="http://cisgw3.law.pace.edu/cases/020114a3.html">http://cisgw3.law.pace.edu/cases/020114a3.html</a>&gt;</li> </ul>
Canada	Supreme Court	1979			<ul style="list-style-type: none"> <li>• The court awarded damages for the failure to return shares of</li> </ul>

	of Canada	<b>Case Name:</b>  <i>Asamera Oil Corp. v. Sea Oil &amp; General Corp</i>			<p>Asamera stock based on the "highest intermediate value of the stock between the time of its conversion and a reasonable time after the owner" had notice to replace it. p. 662 Avoidable losses are not recoverable.</p> <ul style="list-style-type: none"> <li>• <i>Citation:</i> 1 S.C.R. 633</li> </ul>
Canada	Ontario Court	16 Dec. 1998  <b>Case Name:</b>  <i>Nova Tool and Mold Inc. v. London Industries Inc.</i>	97-GD-41311 Windsor	572	<ul style="list-style-type: none"> <li>• The court held that the buyer was entitled to damages for the measures undertaken to place the buyer in the position it would have been in if the seller had performed the contract, <i>i.e.</i> the extra costs incurred by changing producers and "graining" the molds.</li> <li>• <i>Case Text, Abstract, and Commentary:</i> &lt;<a href="http://cisgw3.law.pace.edu/cases/981216c4.html">http://cisgw3.law.pace.edu/cases/981216c4.html</a>&gt;</li> </ul>
Finland	Helsinki Court of Appeals	26 Oct. 2000	S 00/82	1078	<ul style="list-style-type: none"> <li>• In a case where, the seller wrongfully refused to deliver a product the buyer had not previously been in the business of selling, the court, in estimating the buyer's damage as a result of the seller's breach, held that the buyer's sales goal could not be used as basis for estimating lost profits.</li> <li>• <i>Case Text, Abstract, and Commentary:</i> &lt;<a href="http://cisgw3.law.pace.edu/cases/001026f5.html">http://cisgw3.law.pace.edu/cases/001026f5.html</a>&gt;</li> </ul>
France	CA Grenoble	21 Oct. 1999	96J/00101	574	<ul style="list-style-type: none"> <li>• The court held that the French buyer was, in principle, entitled to damages resulting from the Spanish seller's breach of contract and that the buyer could recover its loss of commercial reputation only if it could prove that such loss resulted in monetary damages.</li> <li>• <i>Case Text, Abstract, and Commentary:</i> &lt;<a href="http://cisgw3.law.pace.edu/cases/991021f1.html">http://cisgw3.law.pace.edu/cases/991021f1.html</a>&gt;</li> </ul>

Germany	LG Heidelberg	27 Jan. 1981	O 116/81		<ul style="list-style-type: none"> <li>The court ruled that the seller bears the risk of suffering exchange rate damages based on "financial nominalism" [ULIS precedent]. The Court held that since the contract did not evidence an agreement to the contrary, the nominal value of the sum stated was definitive and the seller could not claim damages from the buyer based on currency fluctuation.</li> <li><i>Case Text, Abstract, and Commentary:</i> &lt;<a href="http://cisgw3.law.pace.edu/cases/810127g1.html">http://cisgw3.law.pace.edu/cases/810127g1.html</a>&gt;</li> </ul>
Germany	OLG Düsseldorf	14 Jan. 1994	17 U 146/93	119	<ul style="list-style-type: none"> <li>The court awarded damages for exchange rate losses under Article 74. Exchange rate damages are available when the aggrieved party can show that if it had received payment when due it would have obtained a higher value by converting the money into its local currency.</li> <li><i>Case Text, Abstract, and Commentary:</i> &lt;<a href="http://cisgw3.law.pace.edu/cases/940114g1.html">http://cisgw3.law.pace.edu/cases/940114g1.html</a>&gt;</li> </ul>
Germany	LG Landshut	5 Apr. 1995	54 O 644/94	193	<ul style="list-style-type: none"> <li>The court awarded buyer damages for costs incurred in storing and returning defective sports clothing</li> <li><i>Case Text, Abstract, and Commentary:</i> &lt;<a href="http://cisgw3.law.pace.edu/cases/950405g1.html">http://cisgw3.law.pace.edu/cases/950405g1.html</a>&gt;</li> </ul>
Germany	AG München	23 June 1995	271 C 18968/94	368	<ul style="list-style-type: none"> <li>The court ruled that the aggrieved party is entitled to recover the costs of measures undertaken to place it in the same position it would have been had the contract been properly performed. Thus, the aggrieved party was compensated for repairing defective goods.</li> <li><i>Case Text, Abstract, and Commentary:</i> &lt;<a href="http://cisgw3.law.pace.edu/cases/950623g1.html">http://cisgw3.law.pace.edu/cases/950623g1.html</a>&gt;</li> </ul>

Germany	LG Trier	12 Oct. 1995	7 HO 78/95	160	<ul style="list-style-type: none"> <li>• The court ruled that nonperformance loss is calculated by taking the difference between the value to the aggrieved party of the expected performance and the value to the aggrieved party of what, if anything, was actually received.</li> <li>• <i>Case Text, Abstract, and Commentary:</i> &lt;<a href="http://cisgw3.law.pace.edu/cases/951012g1.html">http://cisgw3.law.pace.edu/cases/951012g1.html</a>&gt;</li> </ul>
Germany	LG Bielefeld	2 Aug. 1996	12 O 120/95		<ul style="list-style-type: none"> <li>• The Court awarded seller costs of dishonored checks.</li> <li>• <i>Case Text, Abstract, and Commentary:</i> &lt;<a href="http://cisgw3.law.pace.edu/cases/960802g1.html">http://cisgw3.law.pace.edu/cases/960802g1.html</a>&gt;</li> </ul>
Germany	OLG Köln	8 Jan. 1997	27 U 58/96	217	<ul style="list-style-type: none"> <li>• The seller of tanning machines did not return, by the agreed upon date, machines that it had taken back to adjust. The buyer then hired a third party to treat its leather goods. The court ruled that, under Article 74, the buyer was entitled to recover the sum paid to the third party because the hiring of that party was viewed as reasonable under the circumstance.</li> <li>• <i>Case Text, Abstract, and Commentary:</i> &lt;<a href="http://cisgw3.law.pace.edu/cases/970108g1.html">http://cisgw3.law.pace.edu/cases/970108g1.html</a>&gt;</li> </ul>
Germany	OLG Hamburg	28 Feb. 1997	1 U 167/95	261	<ul style="list-style-type: none"> <li>• The court awarded damages using the formula set forth in Article 75 even though there had been no avoidance of contract.</li> <li>• <i>Case Text, Abstract, and Commentary:</i> &lt;<a href="http://cisgw3.law.pace.edu/cases/970228g1.html">http://cisgw3.law.pace.edu/cases/970228g1.html</a>&gt;</li> </ul>
Germany	BGH	25 June 1997	VIII ZR 300/96	277	<ul style="list-style-type: none"> <li>• The court ruled that damages can be awarded for assessment of damage to the goods</li> <li>• <i>Case Text, Abstract, and Commentary:</i> &lt;<a href="http://cisgw3.law.pace.edu/cases/970625g2.html">http://cisgw3.law.pace.edu/cases/970625g2.html</a>&gt;</li> </ul>

Germany	OLG München	28 Jan. 1998	7 U 3771/97	339	<ul style="list-style-type: none"> <li>The Court awarded seller "protest fees" incurred in trying to cash buyer's check.</li> <li><i>Case Text, Abstract, and Commentary:</i> &lt;<a href="http://cisgw3.law.pace.edu/cases/980128g1.html">http://cisgw3.law.pace.edu/cases/980128g1.html</a>&gt;</li> </ul>
Germany	BGH	25 Nov. 1998	VIII ZR 259/97	353	<ul style="list-style-type: none"> <li>The court stated that "[t]he seller's liability includes the consequential damages that the buyer suffered through reimbursement to her customer for the damages caused by the foil non-conformity."</li> <li><i>Case Text, Abstract, and Commentary:</i> &lt;<a href="http://cisgw3.law.pace.edu/cases/981125g1.html">http://cisgw3.law.pace.edu/cases/981125g1.html</a>&gt;</li> </ul>
Germany	LG München	6 Apr. 2000	12 HKO 4174/99	665	<ul style="list-style-type: none"> <li>The court denied the buyer's claim for lost profits on the grounds that awarding damages to buyer based on substitute transaction formula under Article 75 made the buyer whole.</li> <li><i>Case Text, Abstract, and Commentary:</i> &lt;<a href="http://cisgw3.law.pace.edu/cases/000406g1.html">http://cisgw3.law.pace.edu/cases/000406g1.html</a>&gt;</li> </ul>
Germany	LG Darmstadt	9 May 2000	10 O 72/00	560	<ul style="list-style-type: none"> <li>The court ruled that damages due to loss of goodwill are available only if financial loss is established.</li> <li><i>Case Text, Abstract, and Commentary:</i> &lt;<a href="http://cisgw3.law.pace.edu/cases/000509g1.html">http://cisgw3.law.pace.edu/cases/000509g1.html</a>&gt;</li> </ul>
Germany	LG München	30 Aug. 2001	12 HKO 5593/01	668	<ul style="list-style-type: none"> <li>The court held that damages due to loss of goodwill are not available under Convention.</li> <li><i>Case Text, Abstract, and Commentary:</i> &lt;<a href="http://cisgw3.law.pace.edu/cases/010830g1.html">http://cisgw3.law.pace.edu/cases/010830g1.html</a>&gt;</li> </ul>
Italy	District Court Pavia	29 Dec. 1999		678	<ul style="list-style-type: none"> <li>Losses resulting from declining exchange rates are generally regarded as not being compensable. According to the court,</li> </ul>

		<p><b>Case Name:</b></p> <p><i>Tessile v. Ixela</i></p>			<p>ordinary currency devaluation is intended to be compensated through the awarding of interest. The tribunal denied the right to recover losses due to monetary devaluation where currency of agreement was also creditor's local currency.</p> <ul style="list-style-type: none"> <li>• <i>Case Text, Abstract, and Commentary:</i> &lt;<a href="http://cisgw3.law.pace.edu/cases/991229i3.html">http://cisgw3.law.pace.edu/cases/991229i3.html</a>&gt;</li> </ul>
Netherlands	District Court Roermond	<p>6 May 1993</p> <p><b>Case Name:</b></p> <p><i>Gruppo IMAR v. Protech Horst</i></p>	920159	454	<ul style="list-style-type: none"> <li>• The tribunal awarded damages for exchange rate losses under Article 74.</li> <li>• <i>Case Text, Abstract, and Commentary:</i> &lt;<a href="http://cisgw3.law.pace.edu/cases/930506n1.html">http://cisgw3.law.pace.edu/cases/930506n1.html</a>&gt;</li> </ul>
New Zealand	Court of Appeal, Wellington	<p>14 August 1981</p> <p><b>Case Name:</b></p> <p><i>Isaac Naylor &amp; Sons Ltd. v. New Zealand Cooperative Wool Marketing</i></p>			<ul style="list-style-type: none"> <li>• The court awarded damages for exchange rate losses.</li> <li>• <i>Citation:</i> 1 N.Z.L.R. 361</li> </ul>
Switzerland  (Arbitral Award).	HG Zürich	<p>31 May 1996</p>	ZHK 273/95		<ul style="list-style-type: none"> <li>• <i>Case Text, Abstract, and Commentary:</i> &lt;<a href="http://cisgw3.law.pace.edu/cases/960531s1.html">http://cisgw3.law.pace.edu/cases/960531s1.html</a>&gt;</li> </ul>
Switzerland	HG Zürich	<p>5 Feb. 1997</p>	HG 95 0347	327	<ul style="list-style-type: none"> <li>• The court awarded damages for exchange rate losses under Article 74.</li> <li>• <i>Case Text, Abstract, and Commentary:</i></li> </ul>

					<a href="http://cisgw3.law.pace.edu/cases/970205s1.html">&lt;http://cisgw3.law.pace.edu/cases/970205s1.html&gt;</a>
Switzerland	Bezirksgericht der Saane	20 Feb. 1997	T 171/95	426	<ul style="list-style-type: none"> <li>The court ruled that the question of to what extent the aggrieved party has to prove that they suffered damages is a procedural matter beyond the scope of the Convention.</li> <li><i>Case Text, Abstract, and Commentary:</i> <a href="http://cisgw3.law.pace.edu/cases/970220s1.html">&lt;http://cisgw3.law.pace.edu/cases/970220s1.html&gt;</a></li> </ul>
Switzerland	HG Zürich	10 Feb., 1999	HG 970238.1	488	<ul style="list-style-type: none"> <li>The court denied the recoverability of damages under Article 74 for the loss of chance.</li> <li><i>Case Text, Abstract, and Commentary:</i> <a href="http://cisgw3.law.pace.edu/cases/990210s1.html">&lt;http://cisgw3.law.pace.edu/cases/990210s1.html&gt;</a></li> </ul>
Switzerland	HG St. Gallen	3 Dec. 2002  <b>Case Name:</b>  <i>DT Ltd. v. B. AG</i>	HG.1999.82-HGK	727	<ul style="list-style-type: none"> <li>The court awarded damages for exchange rate losses under Article 74. A creditor is entitled to claim damages for any suffered exchange rate loss due to the breach. She may claim the amount calculated on the more favorable exchange rate at maturity. When a creditor of a foreign currency debt usually conducts its business in a different currency, presumably such a party would immediately convert the foreign currency and therefore be entitled to the value determined by the exchange rate at maturity of the obligation.</li> <li><i>Case Text, Abstract, and Commentary:</i> <a href="http://cisgw3.law.pace.edu/cases/021203s1.html">&lt;http://cisgw3.law.pace.edu/cases/021203s1.html&gt;</a></li> </ul>
United Kingdom	Court of Appeal	1911  <b>Case Name:</b>  <i>Chaplin v.</i>			<ul style="list-style-type: none"> <li>The court ruled that an aggrieved party could recover damages for loss of chance to win a beauty pageant, because such damages should have been within the contemplation of the parties at the time the contract was formed.</li> </ul>

		<i>Hicks</i>			<ul style="list-style-type: none"> <li>• <i>Citation:</i> 2 K.B. 786</li> </ul>
United Kingdom	Court of Appeal	1976 <b>Case Name:</b> <i>Milliangos v. George Frank (Textiles) Ltd.</i>			<ul style="list-style-type: none"> <li>• The court awarded damages for exchange rate losses.</li> <li>• <i>Citation:</i> 1976 A.C. 443, 465</li> </ul>
United States	Tx. Ct. of Civil Appeals	1917 <b>Case Name:</b> <i>Kansas City, M &amp; O. Ry. Co. v. Bell</i>			<ul style="list-style-type: none"> <li>• The court held that damages for loss of chance are special damages that are only recoverable if the contracting parties are aware of these potential damages at the time the contract is made.</li> <li>• <i>Citation:</i> 197 S.W. 322</li> </ul>
United States	Iowa Supreme Court	1920 <b>Case Name:</b> <i>Wachtel v. National Alfalfa Journal Co.</i>			<ul style="list-style-type: none"> <li>• The court held damages for loss of chance were recoverable by a person actively participating in a sales contest that was unexpectedly cancelled, because both parties could have anticipated such damages at the time the contract was made.</li> <li>• <i>Citation:</i> 176 N.W. 801</li> </ul>
United States	Texas Supreme Court	1938 <b>Case Name:</b> <i>Southwest Battery Corp. v. Owen et al.</i>			<ul style="list-style-type: none"> <li>• Since the plaintiff failed to promptly meet the defendants' car battery needs, the court awarded the plaintiff the difference between money owed and defendants' lost profits, holding that the party in breach cannot escape liability simply because it is impossible for the aggrieved party to precisely calculate his damages.</li> </ul>

					<ul style="list-style-type: none"> <li>• <i>Citation:</i> 115 S.W.2d 1097</li> </ul>
United States	Cal. Court of Appeals	1942  <b>Case Name:</b>  <i>Oakland California Towel Co. v. Sivils</i>			<ul style="list-style-type: none"> <li>• As a result of the defendant's breach of the linen supply contract, the court awarded the plaintiff the difference between what payments would have accrued if the contract were completed, less the expenses plaintiff would have incurred by performance. The court held that overhead costs are fixed costs that were unaffected by non-performance of the contract, and thus, not deducted from the plaintiff's damages.</li> <li>• <i>Citation:</i> 126 P.2d 651</li> </ul>
United States	California Supreme Court	1955  <b>Case Name:</b>  <i>California Lettuce Growers v. Union Sugar Co.</i>			<ul style="list-style-type: none"> <li>• The court stated that, even though the aggrieved party has the burden of proving damages, such damages need not be plead with mathematical precision.</li> <li>• <i>Citation:</i> 289 P.2d 785</li> </ul>
United States	California Court of Appeals	1958  <b>Case Name:</b>  <i>Edwards v. Container Kraft &amp; Paper Supply Co.</i>			<ul style="list-style-type: none"> <li>• The court held that the plaintiff, whose former employer enjoined him from building a competitive business, could recover for loss of prospective profits for an unestablished business, because the occurrence and extent of such damages were established with reasonable certainty. The court noted that an aggrieved party can establish the extent of damages through the use of expert testimony, economic and financial data, market surveys and analyses, or business records of similar enterprises.</li> <li>• <i>Citation:</i> 327 P.2d 622</li> </ul>

United States	United States Court of Claims	1960 <b>Case Name:</b> <i>Locke v. United States</i>			<ul style="list-style-type: none"> <li>The court held that where the loss of chance for profit is not outweighed by risk of loss and where the aggrieved party can prove calculable damages with reasonable certainty, the court should value those lost opportunity damages.</li> <li><i>Citation:</i> 283 F.2d 521</li> </ul>
United States	United States Supreme Court	1965 <b>Case Name:</b> <i>Hanna v. Plumer</i>			<ul style="list-style-type: none"> <li>The U.S. Supreme Court abandoned the substance-procedure distinction for determining the validity of a federal rule of civil procedure where it may conflict with a state law because such test was unworkable.</li> <li><i>Citation:</i> 380 U.S. 460</li> </ul>
United States	NY Court of Appeals	1972 <b>Case Name:</b> <i>Neri v. Retail Marine Corp.</i>			<ul style="list-style-type: none"> <li>The court held that, although the breaching buyers are entitled to recover their deposit, this amount must be offset by the seller's loss of profit on the sale and incidental damages.</li> <li><i>Citation:</i> 285 N.E.2d 311</li> </ul>
United States	Kansas Supreme Court	1979 <b>Case Name:</b> <i>Butler v. Westgate State Bank</i>			<ul style="list-style-type: none"> <li>The court held that an aggrieved party could establish the extent of damages through the use of expert testimony, economic and financial data, market surveys and analyses, or business records of similar enterprises.</li> <li><i>Citation:</i> 596 P.2d 156</li> </ul>
United States	Nebraska Supreme Court	1979 <b>Case Name:</b> <i>Alliance Tractor</i>			<ul style="list-style-type: none"> <li>The court affirmed plaintiff's award of damages from machine manufacturer, because the evidence "was sufficient to furnish a reasonable certain factual basis for the computation of probable losses" of this relatively new business.</li> </ul>

		<i>&amp; Implement Co. v. Lukens Tool &amp; Die Co.</i>			<ul style="list-style-type: none"> <li>• <i>Citation:</i> 281 N.W.2d 778, 782.</li> </ul>
United States	US Court of Appeals (5th Cir.)	1986 <b>Case Name:</b> <i>Bagwell Coatings v. Middle S. Energy</i>			<ul style="list-style-type: none"> <li>• A fireproofing contractor on a nuclear power station was awarded damages when the defendant breached a contract provision regarding access, because the court held that plaintiff proved to a reasonable certainty that a loss was sustained or will be sustained even though the exact amount of the loss was unknown.</li> <li>• <i>Citation:</i> 797 F.2d 1298</li> </ul>
United States	Nevada Supreme Court	1986 <b>Case Name:</b> <i>Houston Exploration, Inc. v. Meredith</i>			<ul style="list-style-type: none"> <li>• The court held that the plaintiff's expert testimony should have been admitted at trial in order proffer an evidenciary basis for lost profits of a new business enabling the jury to weigh the testimony and reasonably ascertain the losses.</li> <li>• <i>Citation:</i> 728 P.2d 437</li> </ul>
United States	Supreme Court of Alabama	1987 <b>Case Name:</b> <i>Super Valu Stores, Inc. v. Peterson</i>			<ul style="list-style-type: none"> <li>• The court held that the inability of the aggrieved party to precisely calculate one's damages does not enable the breaching party who caused the damage to escape liability. Therefore, the risk of uncertainty of the jury's calculation must fall on the breaching party.</li> <li>• <i>Citation:</i> 506 So. 2d 317, 330</li> </ul>
United States	Wash. Supreme Court	1993 <b>Case Name:</b> <i>Lewis River</i>			<ul style="list-style-type: none"> <li>• The court held that expert testimony assessing plaintiff's loss of business goodwill was not too speculative; therefore, the plaintiff buyer was entitled to damages for loss of profits and for loss of business reputation that resulted from weeds in the seller's seed supply.</li> </ul>

		<i>Golf v. O.M. Scott &amp; Sons</i>			<ul style="list-style-type: none"> <li>• <i>Citation:</i> 845 P.2d 987</li> </ul>
United States	US Court of Appeals (7th Cir.)	1996 <b>Case Name:</b> <i>Mid-America Tablewares, Inc. v. Mogi Trading Co</i>			<ul style="list-style-type: none"> <li>• The court held the plaintiff was entitled to damages for lost profits, because the defendant contractor could have anticipated them and bore the risk of uncertainty in establishing damages as the breaching party.</li> <li>• <i>Citation:</i> 100 F.3d 1353</li> </ul>
United States	US Court of Appeals (2nd Cir.)	6 December 1995 <b>Case Name:</b> <i>Delchi Carrier SpA v. Rotorex Corp.</i>	95-7182, 95-7186	140	<ul style="list-style-type: none"> <li>• The question of to what extent the aggrieved party has to prove that they suffered damages is a procedural matter beyond the scope of the Convention. Damages only need to be proved with reasonable certainty. The aggrieved party is entitled to recover the costs of measures undertaken to place it in the same position it would have been had the contract been properly performed.</li> <li>• <i>Citation:</i> 71 F.3d 1024</li> <li>• <i>Case Text, Abstract, and Commentary:</i> &lt;<a href="http://cisgw3.law.pace.edu/cases/951206u1.html">http://cisgw3.law.pace.edu/cases/951206u1.html</a>&gt;</li> </ul>
United States	United States Supreme Court	1998 <b>Case Name:</b> <i>Sun Oil Co. v. Wortman</i>			<ul style="list-style-type: none"> <li>• "Except at the extremes, the terms 'substance' and 'procedure' precisely describe very little except dichotomy, and what they mean in a particular context is largely determined by the purposes for which the dichotomy is drawn."</li> <li>• <i>Citation:</i> 486 U.S. 717</li> </ul>
United States	US Court of Appeals (7th Cir.)	2002 <b>Case Name:</b>			<ul style="list-style-type: none"> <li>• The court held that issues concerning the awarding of attorneys' fees and costs were to be resolved under domestic procedural law and not under CISG Article 74.</li> <li>• <i>Citation:</i> 13 F.3d 385, 388</li> </ul>

		<i>Zapata Hermanos Sucesores v. Hearthside Baking Co.</i>			<ul style="list-style-type: none"> <li>• <i>Case Text, Abstract, and Commentary:</i> &lt;<a href="http://cisgw3.law.pace.edu/cases/021119u1.html">http://cisgw3.law.pace.edu/cases/021119u1.html</a>&gt;</li> </ul>
United States	US Court of Appeals (4th Cir.)	21 June 2002  <b>Case Name:</b>  <i>Schmitz-Werke v. Rockland</i>		625	<ul style="list-style-type: none"> <li>• In a case involving the CISG, the court applied Maryland law to resolve the exchange rate issue.</li> <li>• <i>Citation:</i> 37 Fed.Appx. 687</li> <li>• <i>Case Text, Abstract, and Commentary:</i> &lt;<a href="http://cisgw3.law.pace.edu/cases/020621u1.html">http://cisgw3.law.pace.edu/cases/020621u1.html</a>&gt;</li> </ul>
United States	US District Court, Southern District of New York	12 August 2006  <b>Case Name:</b>  <i>TeeVee Toons, Inc. (d/b/a TVT Records) &amp; Steve Gottlieb, Inc. (d/b/a Biobox) v. Gerhard Schubert GmbH</i>	00 Civ. 5189 (RCC)		<ul style="list-style-type: none"> <li>• The court denied the defendant's summary judgment motion with respect to TVT's claims under CISG Article 74 for funds paid for the Schubert System, its labor and service, administration of the Biobox Project, and lost profits, because TVT is entitled to seek damages equal to losses resulting from the breach that were foreseeable at the time the contract was created.</li> <li>• <i>Case Text, Abstract, and Commentary:</i> &lt;<a href="http://cisgw3.law.pace.edu/cases/060823u1.html">http://cisgw3.law.pace.edu/cases/060823u1.html</a>&gt;</li> </ul>