

Look Out! Your Swiss law contract may unwittingly be subject to "Vienna Convention" rules

List of cases where the CISG would in principle apply

Party 1	Party 2	What?	Choice of law	CISG applicable?	Reason
Swiss based company	German based company	Party 1 sells coffee machines to party 2	Swiss law	Yes	No exclusion of CISG. CISG as part of Swiss law will apply.
Swiss based company	UK based company	Party 1 sells coffee machines to party 2	None	Most likely yes.	Provided that a Swiss court will be competent for the case, the court will determine the applicable law based on the Swiss conflicts of law rules, which will regularly lead to the national law where the seller has its habitual residence. In this case this will be Swiss law and CISG as part of Swiss law will apply.
Swiss based company	German based company	Party 1 grants license under patent for the manufacturing and selling of coffee machines to party 2	Swiss law	No	Contract does not qualify as "contract of sale" as the subject matter of the contract is intellectual property rights.
UK based company	Qatar based company	Party 1 sells coffee machines to party 2	Swiss law	Yes	CISG also applies to contracts of sale of parties, neither of whom has its place of business in a Contracting State, if the choice of law leads to the law of a Contracting State.
Swiss based company	Swiss based company	Party 1 sells coffee machines to party 2	Swiss law, including CISG	No	Companies are not in different states.
Swiss based company	Consumer in Germany	Party 1 sells coffee machine to party 2 for use in its household	Swiss law	No	Coffee machine is not sold for business purpose.
Swiss based company	German based company	Party 1 sells coffee machines to party 2	Swiss law, expressly excluding CISG	No	CISG is expressly excluded.
Swiss based company	German based company	Party 1 sells coffee machines to party 2	The Swiss Code of Obligations	No	With the reference to the Swiss Code of Obligations, the CISG is deemed excluded.
Swiss based company	German based company	Party 1 sells coffee machines to party 2	UK law	No	Designation of the law of a non-Contracting State excludes the CISG.