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Addendum to the 1991 CEPAC General Conditions of Sale

Background information

The 'General Conditions of Sale of Paper and Board Manufacturers in EEC' document was produced in 1991 by CEPAC – former CEPI. These sales conditions were the result of a harmonisation of the practices used in the various European countries and had been adopted to be applicable to contracts for deliveries of unprocessed paper and board within the EEC. Their aim was to clarify the background for the negotiation of contracts by providing an exact definition of their terms and thus avoiding controversy.

The general conditions of sale are composed of 20 articles and cover areas such as notification and confirmation of orders, delivery, and weight to be invoiced, tolerances of all kinds, settlement of litigation, claims and complaints.

Official translations of the General Conditions of Sale were made available in German, French, Italian, Portuguese and English.

In practice

The conditions of sale have to be agreed upon by the buyer and seller on a voluntary basis, not by any authorities. But of course, the conditions have to be in line with valid law. Some companies, in some countries, refer to these conditions; some do have their own conditions of sale or at least their own additional texts or paragraphs, which might differ from the CEPAC conditions. At the end, the companies work out their specific rules with their main customers.

Regarding the matters that are not covered by these general conditions, the legislation of the country of the seller apply or that of any country expressly selected by joint agreement between the parties. In case no agreement has been made, the Incoterms¹ are often considered as a reference.

¹ "Incoterms" is an abbreviation of International Commercial Terms, which were first published in 1936 by the International Chamber of Commerce. The last update was released in 2000. The Incoterms provide a common set of rules for the most often used international terms of trade, defining the respective roles of the buyer and seller in the arrangement of transportation and other responsibilities and clarify when the ownership of the merchandise takes place. The goal of the Incoterms is to alleviate or reduce confusion over interpretations of shipping terms. The Incoterms are used and referred to quite frequently in international contracts. For more information: <http://www.iccwbo.org/incoterms/id3042/index.html>



Legal validity of the 1991 CEPAC General Conditions of Sale

Since CEPAC does not exist anymore and the General Conditions of Sale document has been produced quite a long time ago, CEPI decided to check the legal validity of this document with a lawyer². Here is below the main findings:

- 1) *“Notwithstanding the fact that CEPAC does not exist anymore, the General Conditions of Sale of CEPAC remain binding upon a contracting party if it can be evidenced that that party knew and accepted them.”*
- 2) *“The CEPAC General Conditions of Sale do not contain any provisions that may induce the members’ commercial conduct at points that can seriously affect competition on the market for paper and board.” [...] “We conclude that the CEPAC General Conditions of Sale are compliant with the EC Competition rules.”*
- 3) *“Furthermore, there is no restriction whatsoever on the CEPI members, when applying the current General Conditions of Sale, to amend some of its provisions in order to provide the buyers a better deal.”*

In conclusion, the CEPAC General Conditions of Sale remain valid for the companies that have already signed a contract with a reference to the CEPAC conditions as well as for the companies that would sign a contract today or in the future with the same reference. It remains the decision of the buyer and the seller of paper and board to refer to this document or not, and to use this document in full or only partly when contracting.

CEPI draws the attention of the potential users that some elements about technical measurement – included in the General Conditions of Sale – are outdated.

For more information, you can contact:

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² Liedekerke-Wolters-Waelbroeck-Kirkpatrick – 28 December 2006 and 19 January 2007.