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CISG ARTICLE 78 AND THE SAUDI CIVIL TRANSACTIONS ACT: ASSESSING COMPATIBILITY

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ABSTRACT

This legal article examines Article 78 of the CISG, which entitles creditors to interest in case of delayed payments but lacks specific guidance on the rate and calculation method. This ambiguity has led to divergent judicial and arbitral interpretations across various jurisdictions. The article argues that this vagueness allows for an interpretation compatible with Saudi Arabia's legal framework, particularly the Civil Transactions Act (CTL). The central claim is that Article 78 should be understood as compensatory rather than usurious. The article suggests that the purpose of entitlement under the CISG is to compensate the creditor for time-value loss due to delay, rather than to generate profit from the debt. This aligns with the compensatory nature of the CTL, which allows for compensation of proven harm, while Sharia law prohibits usury. By using a doctrinal and comparative approach, the article concludes that the vagueness in Article 78 provides room for Saudi courts and tribunals to interpret the provision as delay compensation, which is permissible under Saudi law, provided both parties agree. This interpretation could preserve the CISG's uniformity while remaining consistent with Saudi legal principles.

KEYWORDS: CISG, Article 78, Saudi Civil Transactions Act, Sharia Law, Compensation, Delayed Payment, Usury, International Trade.

1. INTRODUCTION

In 1980, the United Nations Convention on Contracts the International Sale of Goods (CISG) was established to establish a set of international laws that are uniform and recognized internationally to be used in contracts involving the sale of goods between parties located in a different country (Long & Xie, 2021). The main aim of it is to make the international trade easier by minimizing the legal hurdles that exist between the legal systems of various nations (Jiang, 2024). The CISG assists in the facilitation of cross-border transactions by providing uniformity in the rules to be adhered to when creating contracts and the rights and responsibilities of the buyers and sellers, as well as the remedies through such breach of contract, making it predictable and minimizing risks in the international business (Okorley, 2019). The CISG today is ratified by more than 90 countries and thus is one of the most powerful tools in international commercial law.

Article 78 of the CISG deals with the problem of payment delay, which states that when a payment is not made on time, a creditor has a non-negligible right to earn interest, the rate and mode of calculating this interest are not mentioned (Jevremovic, 2022). This clause is also important as it is directed to indemnify the creditor against time value of money that is lost as a result of the delay, which is one of the basic principles in commercial transactions between two countries. Nevertheless, inconsistent interpretations of interest among jurisdictions have arisen due to the ambiguity on the computation of interest (Jevremovic, 2022). Although certain courts and arbitral bodies have given the ways of calculation, in many other cases the determination has been left to the discretion of the parties to the conflict or the courts.

As the main civil law of Saudi Arabia, the Saudi Civil Transactions Act (CTL) regulates the majority of the provisions of the private law in the country, such as contracts, torts, and related civil obligations (AlSamara, 2025; Sassi, 2023). The most important aspect of the CTL is the role of Sharia law, which constitutes the basis of the Saudi law. The principle of Sharia law, which has its foundation in Islamic jurisprudence, does not allow usury (riba) in any type (Spagnolo & Bhatti, 2023). This ban is a corner stone of the Saudi legal and economic principles, and it is applied in regulating financial transactions, such as interest on late payments. Saudi law permits compensation in the damages; however, it does not allow interest, which is a method of generating profits (Ministry of Investment, 2025, arts. 136-137; Spagnolo & Bhatti, 2023).

Article 78 of the CISG is vague especially when it does not give a clear formula in calculating interest, and hence the dispute has been interpreted differently by judicial authorities and arbitration in various jurisdictions (Spagnolo & Bhatti, 2023). Interpretation of the entitlement to interest has been in some countries as compensatory, whereas in others as punitive or usurious. Such a divergence poses a challenge on the uniform application of CISG provisions in such a situation where interest law based on Sharia law, including the prohibition of interest, may provide uncertainties (Daadoush, 2025). Thus, the question appears about the possibility of interpreting Article 78 in such a manner that it would comply with the principles of Saudi law, especially the CTL and its relation to Sharia.

The primary goal of the paper is to evaluate the fact that the vagueness of Article 78 of the CISG has the capacity to permit its interpretation in a way that is consistent with Saudi law principles. Particularly, the paper will examine the possibility of Saudi courts and arbitral tribunal interpreting Article 78 to be viewed as a delay compensation measure and not an interest payment, to meet the Saudi legal system, which outlaws' usury.

The paper shall start by critically describing Article 78 of CISG as it relates to the ambiguities of the article, and the differences in the way it has been interpreted by various legal jurisdictions. It will then present the Saudi Civil Transactions act and discuss its principles especially in reference to the ban of interest in the Sharia law. A comparative analysis will be made to examine how vagueness of Article 78 may make sense in the context of Saudi law contending that a compensatory approach to delay claims would be in line with the Saudi legal system. Lastly, the paper will reflect on the practicability of the application of this interpretation in Saudi courts and arbitral tribunal, the possible challenges and constraints to aligning CISG provisions with Saudi law.

2. METHODOLOGY

This study adopts a doctrinal and comparative legal methodology. The doctrinal part examines Article 78 of the CISG through its text, purpose, scholarly commentary, and relevant judicial and arbitral interpretations across different jurisdictions. It also analyses the Saudi Civil Transactions Act and the relevant Sharia principles governing compensation, delayed performance, and the prohibition of riba. The comparative part evaluates whether the ambiguity of Article 78 permits an interpretation that is compatible with Saudi law,

particularly by treating the entitlement as compensatory rather than usurious. The analysis relies on both primary and secondary legal sources, including statutory provisions, case law, arbitral reasoning, and academic literature, in order to assess the extent to which Article 78 may be reconciled with the Saudi legal framework.

3. RESULTS AND DISCUSSION

3.1. *Article 78 Of The CISG: Overview and Ambiguities*

The topic of interest during an occurrence of a payment delay is covered by article 78 of the United Nations Convention on Contracts on the International Sale of Goods (CISG) (Mutai, 2019). In particular, it states that in the event the buyer does not make payments of the price or part of the price, the seller may claim interest on the payable price. This is a provision that allows the seller to enjoy the compensatory benefit of the time-value loss that has been incurred due to the late payment (Karibi-Botoye et al., 2021). The main provision of Article 78 is that it provides an automatic right to get interests on the case of delayed payment, which means that the creditor is provided with a compensation of loss of time, which could be a serious financial burden (Karibi-Botoye et al., 2021). Nevertheless, the article does not say how the interest should be calculated, or what the right rate may be. This lack of definite direction has brought about a lot of ambiguity in its use.

Article 78 provides an automatic right to interest in case of delay in the payment of the price payable on the contract (Ceesay, 2021). This implies that the creditor (seller) need not have to establish loss to claim interest since the entitlement is presupposed to be associated with the delay itself. Nonetheless, the paper fails to indicate a rate and offer guidelines on how this interest would be computed (Law, 2025). Such ambiguity has resulted in various practices in various systems of law and the courts and other arbitral bodies have been left at liberty to calculate the interest rate. This in effect implies that even though the creditor is entitled to compensation in regard to the time value of the delayed payment, the value of such compensation is open to the interpretation of the jurisdiction in which the dispute is being settled (Law, 2025).

This has resulted in the taking of different interpretations in other jurisdictions because the interest rate and the mode of computation have not been explicitly stated. In certain nations, CISG is applied together with the local legislations of interests where national legislation in the country

will apply in setting the correct interest (Spagnolo & Bhatti, 2023). The interest due may be calculated in other jurisdictions by the rate of the market or an arbitral determination. Certain courts have resorted to the traditional international trade usage or official commentary of the CISG whereas others have referred to national legislation which regulates contractual interests' rates (Spagnolo & Bhatti, 2023). Consequently, no standard practice exists as to how to decide the interest that should be paid under Article 78, and it is also frequently different depending on the jurisdiction, or based on the goodwill of the arbitrator

The judicial and arbitral courts have an important part to play in the interpretation and application of Article 78 since they need to fill the gaps that are caused by the deficiency in specificity in the CISG (Checkley, 2019). The courts and tribunals have come up with different strategies, which they use to arrive at the right interest rate depending on their understanding of the article and legal context. As an example, some of the courts have decided that interest is to be charged at a rate as defined by the national law whereas others have used a market rate which considers the character of international transactions (Checkley, 2019). Parties in an arbitration can also agree on a particular interest rate or the arbitral tribunal can determine the rate to be charged upon commercial practice or past case law. The plethora of its approaches indicates the vagueness of Article 78 and the problems it presents in terms of ensuring consistency in its application.

The ambiguity of Article 78 is in its inability to reveal the interest rate or the calculation method. This ambiguity has given courts and arbitrators and legal practitioners much room as to the interest rate which should be charged (Dawwas, 2025). Lack of consistency in rules on the same compromises the CISG purpose of enhancing uniformity and predictability in international trade. Various jurisdictions and arbitral bodies have come to embrace different practices and this has led to inconsistency in the determination of interest (Keblar, 2023). This uncertainty has identified confusion regarding the foreseeability of the results in the international disputes regarding delayed payments among businesses and legal practitioners. The following section of this paper will address the ways such ambiguity can be construed within the realm of the Saudi law and whether it can be justified within the framework of the Saudi Civil Transactions Act (CTL) and Sharia law

3.2. *The Saudi Civil Transactions Act and Sharia Principles*

The main civil law system governing the legal relations of personal interests in Saudi Arabia is the Saudi Civil Transactions Act (CTL), which is the legal framework of the domain of civil and business contracts, torts, property, and personal rights (Alsamara, 2025; Sassi, 2023). The CTL is closely connected with the Sharia law, which is a basis of Saudi principles of law. Based on the Quran and Hadith, Sharia provides ethical and legal principles of how an individual should act, conduct business and social affairs (Mahasneh, 2023). Although the CTL is meant to offer contemporary legal framework to solve civil issues, it also fully conforms to the Sharia law principles especially in matters touching on contract formation, liability, and compensation (Mahasneh, 2023). In this regard, any of the contractual relations should be in accordance with the Sharia, which is characterized by fairness, transparency, and no exploitation can take place.

The Sharia law prohibits usury (riba), which applies to any transaction, including the interest-based one. According to the Sharia law, it is not permissible to charge or take interest (riba) on loans or debts, since it is considered extortionate and unfair (Ingratubun, 2022). The ban on riba has its origin in the Quran where it is denounced in a number of verses. Concerning the Saudi law, this principle has a direct influence on the control of the financial relations especially regarding the late payments (Rasyid, 2020). According to Sharia, interest on overdue payments is not allowed in any form since it is considered a way of enriching oneself. This is the principle ingrained in the CTL that prohibits financial transactions based on interest (Rasyid, 2020). Therefore, any article of a foreign law, including the CISG that allows the right to interest on the delayed payments generates a possible contradiction with the Saudi legal and Sharia principles.

A major difference between compensation and profit is drawn in Saudi legal practice. The CTL authorizes indemnity to be paid to one party due to the actual loss incurred by the party due to the actions of another party like delay in performance or breach of contract (Awwad, 2024). Nonetheless, this is not a form of compensation that will enable one side to gain out of the delay or the wrongful act. Although compensation is paid on a basis of actual harm; e.g. the time-value loss caused by a late payment, it does not go further to render profit or interest as a form of financial gain (Haddad et al., 2025). By doing this, the CTL is keeping a tight rope on compensating the losses and profits, which may be exploitative or usurious according to the Sharia

law. Therefore, although the law of Saudi permits the compensation of the losses created by the delay or failure to perform, it is designed in such a manner that does not lead to the creation of a profit or interest on the damage (Haddad et al., 2025).

The Saudi law permits compensation of damages caused by delay or any other violation of the contractual obligations. The principle of compensation existing in Saudi law is based on Sharia that enables the victim to receive the actual loss, but not the extra gain (Alkhedhairi, 2023). An example is where a seller is denied an opportunity to earn interest or extra profit but can be compensated on the time-value of the unpaid money because they suffered financial loss as a result of a late payment (Osman, 2024). The important factor in interpreting this principle is that compensation as per the Saudi law is to reinstate the injured party to where he or she would have been had the contract been duly executed at the right time, but this is not to make a profit (Osman, 2024). This is more vital in situations where damages are attributed to delay, where Saudi courts will grant compensation but will not entail such damages as interests.

The principle of having compensation on delay separate of the interest has been followed by Saudi courts throughout the years under Sharia law (Alsuwailem & Meskic, 2025). The courts also look at compensation claims by emphasizing on recovering the actual loss suffered by the injured party so that the damages compensated reflect a relative amount of the damages. The courts however do not allow calculation of interest as part of the damages (Alfaifi, 2024). Although they might lose the money they would have earned in form of delayed payment, the loss is regarded as a way of compensating the harms and not as an avenue to make more money (Alsuwailem & Meskic, 2025). Under these circumstances, Saudi courts would not understand delayed payment as provided under the CISG as the right to interest, but the resultant loss or inconvenience occasioned by the delay.

3.3. Interpreting Article 78 In Light of Saudi Law

Analysis of How the Vagueness of Article 78 Could Be Interpreted Within the Saudi Legal Framework

Article 78 of the CISG as it appears to be unclear, by providing an automatic right to the interest but does not mention the rate and method of calculation, offers an opportunity of interpretation as applied to the situation in Saudi law (Ikram & Parlascino, 2024). Since Article 78 is given open wordings, courts and

arbitral tribunals in Saudi can expand it as compensating loss of time, but not interest. The omission of the term of interest and mode of calculation provides the Saudi legal system with a room to exercise its own principles in the context of delay compensation under the compensation principle of the CTL (Ikram & Parlascino, 2024). By doing so, the Saudi law might perceive Article 78 in such a way that it does not conflict with the legal prohibition of the interest, but still, it provides a fair and reasonable compensation to the loss to the injured party.

Comparative analysis of the CISG Article 78 and the Saudi CTL provides the salient areas of differences and similarities (Spagnolo & Bhatti, 2023). Both legal systems appreciate the damage as a result of paying late and both have a provision that damages may be recovered. Nonetheless, although the CISG offers the automatic right to interest, remedies in terms of interest against the CTL is not possible because usury is forbidden under the Sharia law. This discrepancy can be resolved by construing Article 78 of the CISG as compensatory damages measure as opposed to an interest right, and does not conflict with the CTL ban on usury (Aldahmash, 2025). The Saudi emphasis on reversing actual loss, as opposed to making a profit, justifies the position that Article 78 might be modified to accommodate the CTL model as a compensation payment on time instead of an interest payment.

There is some form of latitude in the interpretation of the foreign legal systems by Saudi law, especially in the interpretation of the international conventions such as the CISG (Alasmari & Alotaibi, 2026). Traditionally, Saudi courts have adopted the flexibility of the doctrine to balance international legal norms on one side against domestic law based on Sharia on the other. Saudi judges and arbiters in international affairs have been known to be pragmatic in that application of foreign law does not go against the basic principles of the Sharia (Aldahmash, 2025). Such flexibility gives Saudi courts the freedom to interpret the ambiguity of Article 78 in line with Saudi law, especially the ban on interest, and yet at the same time ensures that the objective of uniformity of the CISG is met.

Article 78 of the CISG can be interpreted in a number of ways, which are likely to be in accordance with the Saudi civil law and Sharia (Alasmari & Alotaibi, 2026). An example of such an interpretation is that the provision may be seen as compensatory in nature, with the amount of compensation on lost time paid being based on the real loss suffered by the creditor, but not as interest. This would include the

loss of the time-value of the deferred payment, but not at a market-based interest rate. Rather, an economic loss incurred due to the delay could be reasonably estimated according to Saudi law, which is in line with the principle of compensation of the CTL (Alotaibi, 2019). Such interpretation would honour the spirit of the CISG, since this would make the creditor compensated and at the same time the Saudi legal principles, which would prevent the usage of interest or usury would be honored (Alotaibi, 2019). Moreover, it would allow maintaining consistency of the international trade law as it offers a solution that corresponds to both the goals of the CISG and the principles of the Saudi law.

It may nevertheless be argued that Article 78 is more naturally read as an ordinary interest provision and that any attempt to recast it as compensation risks weakening the uniform application of the CISG. From this perspective, the use of the term “interest” may be seen as deliberate and allowing domestic legal systems to reinterpret that term too freely could produce further fragmentation in international sales law. This objection carries some force, especially because the CISG seeks predictability and uniformity across jurisdictions. However, it is not decisive. Article 78 does not specify either the applicable rate or the method of calculation, and that silence has already generated divergent judicial and arbitral approaches. In that sense, interpretive flexibility is not introduced by Saudi law alone, but is already embedded in the structure of the provision itself. A compensatory reading therefore does not necessarily defeat the commercial purpose of Article 78; rather, it seeks to preserve that purpose in a manner consistent with Saudi legal principles, particularly where Saudi law recognises compensation for actual harm while prohibiting *riba* (Ministry of Investment, 2025, arts. 136–137; Spagnolo & Bhatti, 2023).

3.4. The Compensatory Nature of Article 78

The Claim that Article 78 Should Be Understood as Compensatory, Not as Usurious

Article 78 of the CISG that gives automatic right to an interest as a result of default payment has caused a lot of controversy because it is not specific on the rate and mode of calculation of an interest (Khabti, 2019). Although other jurisdictions view such an entitlement as a claim to usurious interest such interpretation is inappropriate to Article 78, which is compensatory in nature as opposed to profit-generating (Khabti, 2019). The idea behind the provision is to recompense the creditor financial loss as a result of receiving payment late rather than to punish and make a gain on the debtor. In this regard,

the right to interest is to be regarded as a compensatory measure to the loss of time-value of money as a result of the delay, which is correlated with the principle of compensation of harm that is inherent in numerous legal systems, such as Saudi law (Alkhedairy, 2023).

The law of Saudi especially on the Saudi Civil Transactions Act (CTL), and the Sharia law puts a great emphasis on the law of compensation, which is the actual harm (Sassi, 2023). The Saudi law permits the compensation of the delays or other breaches of the contract in integration with the actual harm triggered in the party that has been wronged, unlike the concept of interest which is forbidden by the Sharia law since it is a form of usury. This compensatory aspect of Article 78 which can be interpreted as a loss compensation, as opposed to a payment of interest, can be seen as closely consistent with the idea of compensation of harm prevalent in Saudi law instead of letting one party gain out of the delay of another (Bälz & Fawzy, 2024). This compensation principle indicates the adherence of the Saudi legal system to fairness and justice whereby a given party may reclaim his or her real losses without enjoying the delay in relation to the damage suffered.

Compensatory approach of Article 78 has been argued by many legal scholars and commentary of CISG. To illustrate, in the UNCITRAL Digest of Case Law on the CISG, cases frequently focus on the fact that the main purpose of Article 78 is to ensure that the creditor is compensated by the time value of money lost by delay in receiving payment as opposed to a penalty imposed on the debtor (Hidy & Diener, 2019). Moreover, researchers, like Hidy and Diener (2019), state that the CISG does not mention the interest rate or rate of computation, which permits flexibility in its interpretation, and delay compensation is the most reasonable and justifiable way of interpretation. The approach has been upheld in the international case law whereby courts and tribunals have decided that the payment that was not made on time should be paid by reference to the actual damage to the creditor and this prevents any classification of entitlement as an interest or a penalty (Garro, 2008). This has been echoed in the civil law jurisdictions where the provision has been aligned by the courts with compensatory damages, as opposed to usury.

The thesis that Article 78 claims should be seen not as a payment of interest but instead as a payment as compensation of delay is based on the fact that the charge of interest is associated traditionally with charging money or profit on money borrowed

(Alotaibi, 2024). This idea is opposite to the Sharia law in Saudi Arabia that does not allow usury where interests will not be given on the debts or payments overdue. Interpreting Article 78 in a compensatory manner does not create any contradiction with the Saudi legal principles, which permit compensation of damages, but not profit and interest (Alotaibi, 2024). Additionally, this interpretation is more consistent with the international trading practices in accordance with the CISG that tries to indemnify the creditor against the economic loss brought about by the payment default, without promoting unjust enrichment and profiteering (Alsuwailem & Meskic, 2025). Compensatory solution, therefore, complies with the objectives of uniformity of the CISG, as well as with the principles of Saudi law, and allows the creditor to have a fair compensation of the damage incurred on account of the delay without breaching the prohibition against interest.

3.5. Potential Application Before Saudi Courts and Arbitral Tribunals

The role of Saudi courts and arbitral tribunals in interpreting and applying the international conventions such as the CISG is important because it is essential to determine and apply the use of interest in a delayed payment case (Osman, 2024). Although the Saudi law is founded mainly on the Sharia principles, there is an increasing case law in Saudi law which has integrated the international agreement as well adopts a flexible interpretation of foreign legal principles (Alfaifi, 2024). The Saudi judiciary has demonstrated a pragmatic way of handling matters of international trade law, which is based on the flexibility of the CTL to harmonize international legal norms with Sharia law (Alfaifi, 2024). Such flexibility is necessary in the interpretation of such provisions as Article 78 because it enables the Saudi courts and arbitrators to adjust the CISG provisions to local law provisions without going contrary to the uniformity goal of the CISG.

Article 78 is not very concrete leaving a lot of room to be flexibly interpreted by Saudi courts and arbitral tribunals. The article does not spell out an interest rate or calculation method; thus, Saudi legal authorities can apply it to suit Saudi legal traditions, specifically, the Sharia law outlawing interest (Awwad, 2024). Such flexibility is also open to the compensatory approach where delay compensation is granted depending on the actual loss the creditor has suffered without it being classified as interest. This method also takes into consideration the independence of the Saudi legal practice whereby the

tenets of justice and fairness are not compromised upon with regard to the teachings of Sharia, yet at the same time, it offers a reasonable solution to delay (Awwad, 2024).

The Saudi law may offer a guideline to the application of Article 78 in a way that is in line with the Sharia principles by construing the provision as a remedy of delayed payment as opposed to being an interest (Rasyid, 2020). Such an interpretation would enable Saudi courts and arbitral tribunals to align their interpretation and application of the CISG with the principles of compensation in the Saudi civil law, which have a Sharia-based background. An example is that the courts might examine the loss with the lapse of time and compensate the complainant with this loss, instead of using an interest rate (Aldahmash, 2025). This would prevent a confrontation with the ban on *riba* (usury) in Sharia law, but still respect the ethos of Article 78, which attempts to recompense the creditor with the damage to his finances because of the delayed payment.

To Saudi legal practitioners, Article 78 should be applied in disputes involving delayed payment with due consideration to Saudi legal principles and Sharia law. Practically, Saudi courts and arbitral tribunals will be required to strike a balance between international commercial law and domestic legal rules (Ikram & Parlascino, 2024). Lawyers are therefore advised to support a compensatory approach to the application of Article 78, in which the claim is framed as compensation for time-value loss rather than interest in the conventional sense. Practitioners should also be prepared to navigate the complexity of international contracts so that CISG provisions may be reconciled with local law in a way that does not conflict with the Saudi legal framework and its relation to Sharia principles (Alotaibi, 2024).

3.6. Challenges And Limitations in Harmonizing CISG With Saudi Law

The main issue with the compatibility of CISG Article 78 and the Saudi legislation is the fact that under Sharia interest is not allowed. Article 78 gives an automatic right to interest in case of delayed payments; however, the Saudi law forbids the interest (*riba*) (Spagnolo & Bhatti, 2023). The alignment of these principles must be done with care to make sure that the objective of the CISG of uniformity would not be against the Saudi legal principles. The Sharia law may severely restrict interpretation as far as the interest-based provisions such as Article 78 are concerned (Bälz & Fawzy, 2024). Whereas sharia permits compensation on actual damage caused by a delay, it does not permit

any kind of profit, which is caused by financial transactions like interest. This implies that Article 78 should be restricted so that it does not treat compensation as interest which is in line with Saudi values of the law (Ministry of Investment, 2025, arts. 136–137; Spagnolo & Bhatti, 2023).

Although the international trade demands equal legal jurisdiction, the legal sovereignty and the Sharia law enforced in Saudi Arabia may pose conflict with other international treaties such as CISG (Checkley, 2019). The Saudi courts have to reconcile with the international demands and the strictures of the national law with an aim that the commercial agreements are construed in a manner that does not shield the international uniformity and the Saudi legal principles. This may create a conflict situation where the interest claims under the CISG come into conflict with the no-interest of the Sharia law (Spagnolo & Bhatti, 2023). The answer is to view Article 78 in a compensatory way, as a loss of a delay, which is in fact incurred, without the result of classifying compensation as interest and also without derailing the goals of CISG.

4. CONCLUSION

This paper examined whether Article 78 of the CISG can, in principle, be understood in a manner that is compatible with Saudi law. The discussion showed that the main difficulty does not lie in the existence of the entitlement itself, but in the fact that Article 78 does not determine the rate of interest or the method of calculation. That silence has produced different judicial and arbitral approaches across jurisdictions, which confirms that the provision leaves room for interpretation.

From the Saudi perspective, the issue becomes more sensitive because the Saudi Civil Transactions Act operates within a legal environment shaped by Sharia principles, most importantly the prohibition of *riba*. At the same time, Saudi law does recognize compensation for actual harm caused by delay or breach. On that basis, the paper argued that Article 78 should not necessarily be approached as a provision imposing usurious interest, but may instead be understood as a compensatory mechanism intended to address the loss caused by delayed payment. In that sense, the ambiguity of Article 78 may be seen not only as a problem, but also as an opportunity for a Saudi-compatible interpretation.

The comparative and doctrinal analysis further supports this conclusion. Since courts and tribunals have not adopted one single method for quantifying Article 78 entitlement, it becomes possible to argue that the provision is flexible enough to accommodate

an interpretation consistent with Saudi legal principles. A compensatory reading preserves the commercial purpose of the CISG, while at the same time avoiding an interpretation that would directly conflict with the prohibition of interest under Saudi law.

Accordingly, the conclusion reached in this paper is that Article 78 is not necessarily incompatible with Saudi law. Rather, its compatibility depends on the manner in which it is interpreted and applied. If approached as compensation for delay rather than profit on debt, Article 78 may, in principle, operate within the framework of the Saudi Civil Transactions Act and Sharia-based legal reasoning.

Based on these findings, a number of observations

may be made. First, Saudi courts and arbitral tribunals should approach Article 78 with emphasis on its compensatory function rather than its literal association with interest. Second, greater doctrinal clarity is needed on how delayed payment under international sales contracts should be treated in the Saudi legal context. Third, future legal and judicial practice in Saudi Arabia may benefit from developing a more consistent framework for reconciling international commercial obligations with domestic Sharia-based principles. Finally, this issue deserves further study, especially as Saudi Arabia continues to engage more deeply with international commercial law and dispute resolution.

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REFERENCES

- Alasmari, A. A. and Alotaibi, H. A. (2026) Modernizing commercial agency regulations in Saudi Arabia: Legal reforms and comparative insights. *F1000Research*, Vol. 14, 912.
- Aldahmash, A. N. A. (2025) The petition for a liquidation procedure and the administrative liquidation procedure: A comparative analysis study in Saudi and UK insolvency law. *International Journal of Law and Management*. Advance online publication.
- Alfaifi, A. (2024) Lost profit damages for breaches of commercial contracts: Examining common law and civil law approaches to recovery and lessons for Saudi Arabia. Doctoral dissertation, University of Essex.
- Alkhedhairi, M. (2023) Fundamental principles in Saudi Arabia's marine insurance law with reference to the law and practice in Egypt and the UK: A comparative study. Doctoral dissertation, University of Leicester.
- Alotaibi, A. S. (2019) The development of an arbitration system attractive to international commerce: Analysing the new Saudi law of arbitration 1433H (2012). Doctoral dissertation, University of Warwick.
- Alotaibi, G. S. M. (2024) The compensatory principles and provisions in relation to medical harm in Saudi Arabia. Doctoral dissertation, University of Sussex.
- AlSamara, T. (2025) مصادر الالتزام في نظام المعاملات المدنية السعودي الجديد والقانون الفرنسي: دراسة مقارنة [in Arabic]. Riyadh: Obeikan.
- Alsuwailem, F. and Meskic, Z. (2025) Tracking judicial change towards more legal certainty through citation analysis: A case study on the legal basis for compensation rulings before Saudi commercial courts after the enactment of the Civil Transactions Law. *Access to Justice in Eastern Europe*, Vol. 8, No. 3, 390–419.
- Awwad, A. (2024) Contractual freedom and restrictions included therein in the Saudi Civil Transactions Law. *International Journal of Religion*, Vol. 5, No. 5, 210–222.
- Bälz, K. and Fawzy, F. (2024) Saudi Arabia – The new Civil Transactions Law. *Arab Law Quarterly*, Vol. 40, No. 1–2, 217–230.
- Ceesay, B. (2021) Finding an ideal contract law regime for the international sale of goods: A comparative study

- on the remedy of termination for breach of contract under the United Nations Convention on Contracts for the International Sale of Goods (CISG), the UNIDROIT Principles of International Commercial Contracts (PICC) and the Gambia Sale of Goods Act. *European Journal of Law Reform*, Vol. 23, No. 2, 185–221.
- Checkley, J. C. (2020) The role of the CISG and international legal education: A model for future promotion of the CISG. *Journal of Law and Commerce*, Vol. 38, No. 1, 407–425.
- Daadoush, G. H. (2025) The intersection of the CISG (Convention on Contracts for the International Sale of Goods) and Islamic law (Saudi Arabia). SSRN, 5242123.
- Dawwas, A. (2025) CISG-applicability before national judiciary in Egypt, Bahrain, Qatar and Jordan. *Access to Justice in Eastern Europe*, Vol. 8, No. 3, 327–361.
- Garro, A. M. (2008) CISG Advisory Council Opinion No. 7: Exemption of liability for damages under Article 79 of the CISG. *Internationales Handelsrecht*, Vol. 8, No. 3, 122–132.
- Haddad, A., Kreutzberger, K. and Fagiri, L. (2025) Balancing tradition and reform – Saudi Arabia’s new Civil Transactions Law. *Arab Law Quarterly*, 1(aop), 1–24.
- Hidy, K. M. and Diener, K. W. (2020) Damages under CISG: Attorneys’ fees and other losses in international commercial law. *Journal of Transnational Law & Policy*, Vol. 29, No. 1, 1–76.
- Ikram, N. and Parlascino, G. (2024) Saudi Arabia’s Civil Transactions Law. *Construction Law International*, June 2024.
- Ingratubun, M. H. (2022) Application of the interest system in conventional banks and its relation to Islamic law regarding usury. *Awang Long Law Review*, Vol. 5, No. 1, 373–378.
- Jevremovic, N. (2022) Article 79 CISG: Testing the effectiveness of the CISG in international trade through the lens of the COVID-19 outbreak. In *Blurry Boundaries of Public and Private International Law: Towards Convergence or Divergence Still?* 127–155. Singapore, Springer Nature Singapore.
- Jiang, H. (ed.) (2024) *Towards a Model Sales Law in the Greater Bay Area: A Comparative Study of Contract Law in Mainland China, Hong Kong and Macau*. Edward Elgar Publishing.
- Karibi-Botoye, N., Enwukwe, N. E. and Timothy, B. B. (2021) The passing of risk in the international sale of goods: An appraisal of the United Nations Convention on Contracts for the International Sale of Goods (CISG). *Journal of Law and Policy*, Vol. 1, No. 2, 15–35.
- Keblar, I. (2023) The problem of CISG’s ambiguity: Article 2(e). Doctoral dissertation, Sveučilište u Zagrebu, Pravni fakultet.
- Khabti, A. S. (2019) *Derivative suit under the Saudi Companies Law: Theory and best practice*. Dissertation, Indiana University Maurer School of Law, Doctor of Juridical Science (SJD).
- Law, T. (2025) Principles of the United Nations Convention on Contracts for the International Sale of Goods (CISG): Party autonomy, binding force of contracts, and contract preservation. *Law Science*, Vol. 4, 169–192.
- Long, J. and Xie, W. (2021) The concept of long-term sustainability of outer space activities as an emerging source of international law. *Journal of Space Law*, Vol. 45, No. 1, 46–110.
- Mahasneh, N. (2023) Achieving legal certainty in civil dealings: An overview of the Saudi Civil Transactions Regulation. *Manchester Journal of Transnational Islamic Law & Practice*, Vol. 19, No. 3, 313–321.
- Ministry of Investment (2025) *Civil Transactions Law*. Saudi Arabia.
- Mutai, V. K. (2019) Regulation of interest in international contracts under the UN Convention on Contracts for the International Sale of Goods. *African Journal of Commercial Law*, Vol. 1, No. 1, 77–96.
- Okorley, S. (2019) The possible impact of The Hague Convention on the recognition and enforcement of foreign judgments in civil or commercial matters on private international law in common-law West Africa. Master’s dissertation, University of Johannesburg.
- Osman, N. (2024) Saudi Arabia’s Civil Code: General principles applicable to construction contracts. *OCAJL*, Vol. 57, 79–84.
- Rasyid, D. (2020) Interest loan in the perspective of Islamic jurisprudence (comparative studies). *SALAM: Jurnal Sosial dan Budaya Syar-i*, Vol. 7, No. 11, 1073–1088.
- Sassi, N. B. (2023) Moral damages in the new Saudi Civil Transactions Law: The end of a controversy. *Manchester Journal of Transnational Islamic Law & Practice*, Vol. 19, No. 3, 301.
- Spagnolo, L. and Bhatti, M. (2023) Conflicts of interest between Sharia and international sale of goods: Does CISG interest fit with Islamic law? *Monash University Law Review*, Vol. 49, No. 1, 151–196.