

**Stoppningsrätt  
under  
godstransport**

**Stoppage  
in  
transit**

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**Abstract**

The topic of this thesis is the right of stoppage in transit. This right has varied in time and extent. According to the Sale of Goods act a party may suspend the performance of his obligation if, after the conclusion of the contract, it becomes apparent that the other party will not perform a substantial part of his obligations as a result of a serious deficiency in his ability to perform or in his creditworthiness or his conduct in preparing to perform or in performing in contract. If the goods have already been despatched, the seller can – on the said grounds – prevent them from being delivered to the buyer, i.e. the actual stoppage in transit.

If the right of stoppage in transit is to be exercised in a proper way, it is imperative that the right of stoppage in transit is synchronised with other rights that exist under transport law such as the right to control the goods during transit. However, the right of stoppage in transit is not co-ordinated in the said manner with other parts of the law. A host of practical problems thus arise when the right is to be exercised.

Today, the seller can in the majority of cases cover himself against the risk of non-performance from the buyer, through the terms of payment. Only when credit has been granted is the seller exposed to the risk of a loss. It is in such situations that the right of stoppage in transit emerges as an independent institution to protect the seller. The areas in which the rules governing the right of stoppage in transit can be exercised in practice, therefore appear to be extremely limited in view of the fact that other forms of protection are available.

The conclusion of the thesis is that, in the light of developments in society in general and especially in the transport and finance sectors, the institution of stoppage in transit is outmoded. The need for a right of stoppage in transit is therefore called into question.

There are, however still a need for the rules for suspending performance. These rules can be seen as a complement to the principle of simultaneous exchange.

More doubt can be drawn to the necessity of the actual right of stoppage in transit. If it is to remain, the rules must be designed so that the carrier is not faced with the dilemma of competing claims: one from the seller and one from the consignee.

This change would take place most appropriately by the rules being designed in a clear manner. Such a way is achieved if the seller is permitted to exercise the right of stoppage in transit only if he is also entitled to disposal of the goods according to the rules laid down in transport laws. Such an arrangement assumes changes in the rules laid down in the Sale of Goods Acts and the transport laws.

Key words: The right of stoppage in transit, sale of goods, law on sale, transport law, property law, CISG.