36" Specific cases. The CISG already sets out more or less clearly some important principles that are of significance for the purpose of gap-filling. They are: the priority enjoyed by the intention of the parties (Article 6), the taking into account of usages (Article 9), and the principle that declarations may be made without observing requirements as to form (Article 11), the latter principle being subject to the exception - to be narrowly construed - in Article 12.

37" Other principles can be derived from the need for the observance of good faith. They include, in particular, the prohibition of the misuse of rights - especially in the context of speculation when exercising rights - and also *venire contra factum proprium*; those principles also find expression in Article 80.

38" The following principles capable of general application are expressed in provisions of the CISG: a party's conduct is to be measured against objective criteria determined by the views of a "reasonable person of the same kind"; declarations are to be interpreted primarily according to their objective meaning; whenever necessary, the parties must inform each other of developments; an impending loss is to be mitigated as far as possible.

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59 Cf. Art 8(2). The requirement that good commercial practice of international trade be observed is of general application; cf. also Enderlein/Maskow/Strohbach, cited in n. 58 above; on ULIS Mertens/Rehbinder, Art 7 EKG, 22.

60 Cf. Art 8(1)

61 Also Honnold, para 100; Enderlein/Maskow/Strohbach, cited in n. 58 above.

62 Arts 77, 85, and 86. Honnold, para 101; Heuzé, note 95.

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**Referring Principles:**

- I.2.2 - Trade usages
- I.1.3 - Forfeiture of rights
- I.1.2 - Prohibition of inconsistent behavior
- IV.4.1 - Freedom of form
- IV.5.1 - Intentions of the parties
- IV.6.9 - Duty to notify / to cooperate
- VII.4 - Duty to mitigate