

CASE 2-6 When International Buyers and Sellers Disagree

No matter what line of business you're in, you can't escape sex. That may have been one conclusion drawn by an American exporter of meat products after a dispute with a German customer over a shipment of pork livers. Here's how the disagreement came about.

The American exporter was contracted to ship "30,000 lbs. of freshly frozen U.S. pork livers, customary merchantable quality, first rate brands." The shipment had been prepared to meet the exacting standards of the American market, so the exporter expected the transaction to be completed without any problem. But when the livers arrived in Germany, the purchaser raised an objection: "We ordered pork livers of customary merchantable quality—what you sent us consisted of 40 percent sow livers."

"Who cares about the sex of the pig the liver came from?" the exporter asked.

"We do," the German replied. "Here in Germany we don't pass off spongy sow livers as the firmer livers of male pigs. This shipment wasn't merchantable at the price we expected to charge. The only way we were able to dispose of the meat without a total loss was to reduce the price. You owe us a price allowance of \$1,000."

The American refused to reduce the price. The determined resistance may have been partly in reaction to the implied insult to

the taste of the American consumer. "If pork livers, whatever the sex of the animal, are palatable to Americans, they ought to be good enough for anyone," the American thought.

It looked as if the buyer and seller could never agree on eating habits.

QUESTIONS

1. In this dispute, which country's law would apply, that of the United States or of Germany?
2. If the case were tried in U.S. courts, who do you think would win? In German courts? Why?
3. Draw up a brief agreement that would have eliminated the following problems before they could occur:
 - a. Whose law applies.
 - b. Whether the case should be tried in U.S. or German courts.
 - c. The difference in opinion as to "customary merchantable quality."
4. Discuss how SRC may be at work in this case.