

**Commentary**

1. Article 19 deals with acceptances that arrive after the expiration of the time for acceptance.

*Power of offeror to consider acceptance as having arrived in due time, paragraph (1)*

2. If the acceptance is late, the offer lapses and no contract is concluded by the arrival of the acceptance. However, article 19 (1) provides that the late acceptance becomes an effective acceptance if the offeror without delay informs the acceptor orally or by the dispatch of a notice that he considers the acceptance to be effective.

3. Article 19 (1) differs slightly from the theory found in many countries that a late acceptance functions as a counter-offer. Under this paragraph, as under the theory of counter-offer, a contract is concluded only if the original offeror informs the original offeree of his intention to be bound by the late acceptance. However, under this paragraph it is the late acceptance which becomes the effective acceptance as of the moment of its receipt, even though it requires a subsequent notice to validate it. Under the counter-offer theory it is the notice by the original offeror of his intention which becomes the acceptance and this acceptance is effective only upon its arrival.

*Acceptances which are late because of a delay in transmission, paragraph (2)*

4. A different rule prevails if the letter or document which contains the late acceptance shows that it was sent in such circumstances that, if its transmission had been normal, it would have been communicated in due time. In such case the late acceptance is considered to have arrived in due time, and the contract is concluded as of the moment the acceptance reaches the offeror, unless the offeror without delay notifies the offeree that he considers the offer as having lapsed.

5. Therefore, if the letter or document which contains the late acceptance shows that it was sent in such circumstances that if its transmission had been normal, it would have reached the offeror in due time, the offeror must notify, without delay, the offeree to prevent a contract from being concluded. If the letter or document does not show such proper dispatch and the offeror wishes the contract to be concluded, he must notify, without delay, the offeree that he considers the acceptance to be effective pursuant to article 19 (1).

**Article 19****[Late acceptance]**

(1) A late acceptance is nevertheless effective as an acceptance if without delay the offeror so informs the offeree orally or dispatches a notice to that effect.

(2) If the letter or document containing a late acceptance shows that it has been sent in such circumstances that if its transmission had been normal it would have reached the offeror in due time, the late acceptance is effective as an acceptance unless, without delay, the offeror informs the offeree orally that he considers his offer as having lapsed or dispatches a notice to that effect.

PRIOR UNIFORM LAW

ULF, article 9.