CISG

A as seller and B as buyer have entered into a contract for the sale of tomatoes. According to this contract A was to deliver 10 tons of tomatoes harvested from A’s fields to B. Due to unexpectedly bad weather the tomato harvest was poor and A could only deliver 5 tons. B sues A for damages.

The applicable law is the CISG. The contract contains no specific provisions dealing with such circumstances.

Please answer both questions below:

(a) You represent B. How would you argue your client’s case?

(b) You represent A. How would you defend your client in these proceedings?

You no not need to draft “proper” submissions. Simply focus on the legal issue at hand. For the sake of this exercise, please only concern yourself with the issue of (exemption from) liability.

For motivated students - variation of facts:

The contract is for the sale of canned tomatoes. After conclusion of the contract and before delivery, the price of tomatoes rises by about 80% due to the poor harvest. A tries to renegotiate a higher contract price arguing that he would lose all his profits otherwise, but B refuses flat-out and insists on delivery of the goods at the price agreed upon. The contract does not contain a price-adjustment clause.

International Arbitration

The notion of competence-competence is an important corner-stone of the international arbitration framework.

(a) Briefly describe the concept – and why it is so significant (in only a short paragraph).

(b) Then sketch a fact pattern in which this principle would be of particular relevance for the claimant in an arbitration.

(c) Can you think of any constellation in which a respondent might want to rely on this principle as well?