

Course Introduction to International Business Law

Lecture 2

Step up to Saxion.



Topics

- Revision lecture 1
 - Questions
- Subjects of today:
 - At what moment have you reached an agreement?
 - Stages of preliminary negotiations.
 - Breaking of negotiations (breach of contract and tort).
 - Homework

Reaching an agreement

- An agreement is concluded when one party accepts (offeree) the offer of another party (offerer)
- Legal offer:
 - an offer is described
 - a price is determined
 - the number of objects is given
- Invitation to enter into negotiations

Reaching an agreement 2

- Reception theory: the offer is valid when it reaches the other party
- Withdrawing an offer → prevents that the offer becomes a valid offer
- Revoking an offer → valid offer but offerer changes his mind and cancels

Reaching an agreement 3

- No revocation
 - The offer has already been accepted by the offeree
 - The offer is irrevocable

Stages of preliminary negotiations

- Rules of good faith
- According to EU jurisprudence two stages in the negotiation phase:
 - Stage 1: parties start negotiating/exploring possibilities
 - Stage 2: an agreement is within reach

Breaking of negotiations

- Possibility to claim damages?
 - Using breach of contract?
 - Using tort?

Claim damages?

- Stage 1: Parties are free to break off negotiations, no claims
- Stage 2: with the agreement within reach no liberty to break off the negotiations unless the breaking off party pays for the costs (& loss of profit)

Using breach of contract?

- Parties have already concluded a contract when they agree on two essential elements ->
 - Price
 - Object
- The party that breaks off is liable for damages of the other party

Using Tort?

- In case parties didn't agree on price and/or object -> no agreement reached.
- Claim damages based on tort
- Relevance of "good faith" and in what way the interest of the other party was taken into consideration

Homework

- Exercises 1 and 2 Chapter 2