

Documentation Support Management

Lecture #2

Agreement vs. Contract

International Trade

Trading Criteria

Agreement vs. Contract

- ▶ An agreement is any understanding or arrangement reached between two or more parties.
- ▶ A contract is a specific type of agreement that, by its terms and elements, is legally binding and enforceable in a court of law.

Agreement vs. Contract

Agreement

Definition

An arrangement (usually informal) between two or more parties that is not enforceable by law.

Validity based on

Mutual acceptance by both (or all) parties involved.

Does it need to be in writing?

No.

Contract

Definition

A formal arrangement between two or more party that, by its terms and elements, is enforceable by law.

Validity based on

Mutual acceptance by both (or all) parties involved.

Does it need to be in writing?

No*, except for some specific kinds of contracts, such as those involving land or which cannot be completed within one year.

Agreement vs. Contract

*Most contracts can be either written or oral and still be legally enforceable, but some agreements must be in writing in order to be binding. However, oral contracts are very difficult to enforce because there's no clear record of the offer, consideration, and acceptance.

Agreement vs. Contract

Agreement

Consideration required

No

Legal effect

An agreement that lacks any of the required elements of a contract has no legal effect.

Contract

Consideration required

Yes

Legal effect

A contract is legally binding and its terms may be enforceable in a court of law.

Agreement vs. Contract Definition

- ▶ An agreement is an expansive concept that includes any arrangement or understanding between two or more parties about their rights and responsibilities with respect to one another. Such informal arrangements often take on the form of “gentlemen’s agreements,” where adherence to the terms of the agreement relies upon the honor of the parties involved rather than exterior means of enforcement.
- ▶ A contract is a specific type of agreement that meets certain requirements designed to create legally binding obligations between parties that are enforceable by a court of law.

Handshake. Even today handshakes are a powerful social contract.



Agreement vs. Contract Requirements

- ▶ In order to reach an agreement, parties need only come to a common understanding as to their relative rights and responsibilities, what is often termed a “meeting of the minds.” The requirements for the formation of a contract are more precise and comparatively stricter. A contract must contain the following essential elements:

Requirements

- ▶ Offer and Acceptance: Every contract must include a specific offer, and the acceptance of that specific offer.
- ▶ Mutual Consent: The offer and acceptance must be freely consented to by the parties, without coercion. All parties must agree to the same terms, and all must intend for a binding agreement to be formed.
- ▶ Consideration: This is something of value that is exchanged between the parties. Consideration can take the form of money, goods, or services, but both parties must provide something of value for a contract to be formed. If only one side provides something, it is a gift, not a contract.

Requirements

- ▶ **Competence:** Both parties must comprehend the situation and understand what the contract will entail. Thus, no party can be a minor, under the influence of drugs or alcohol, or mentally deficient in a way that would prevent them from understanding the terms of the contract. A non-competent party to a contract may disavow the contract, which would render it void.
- ▶ **Legal Purpose:** The purpose of the contract must fall within the confines of lawful conduct. In other words, a court would never enforce a contract regarding something illegal.

Requirements

- ▶ So long as a contract meets the requirements above, it is enforceable in a court of law, which means that a court can compel a non-compliant party to abide by the terms of the contract. Generally, a contract does not need to be in writing, and in many cases, an oral agreement with all of the elements listed above will constitute a valid and enforceable contract.

Requirements

- ▶ Some situations, however, require that a contract be in writing to be enforceable. These situations are laid out in each country's statute of frauds. While the precise list of situations vary from country to country, most statutes of frauds require that contracts for the following be in writing:
 - ▶ Transactions involving real estate
 - ▶ Marriage contracts
 - ▶ Transactions that require more than one year to complete

International business

- ▶ International business refers to the trade of goods, services, technology, capital and/or knowledge across national borders and at a global or transnational scale.
- ▶ It involves cross-border transactions of goods and services between two or more countries. Transactions of economic resources include capital, skills, and people for the purpose of the international production of physical goods and services such as finance, banking, insurance, and construction. International business is also known as globalization.

International business

- ▶ To conduct business overseas, multinational companies need to bridge separate national markets into one global marketplace. There are two macro-scale factors that underline the trend of greater globalization. The first consists of eliminating barriers to make cross-border trade easier (e.g. free flow of goods and services, and capital, referred to as "free trade"). The second is technological change, particularly developments in communication, information processing, and transportation technologies.

"International business" is also defined as the study

- ▶ "International business" is also defined as the study of the internationalization process of multinational enterprises. A multinational enterprise (MNE) is a company that has a worldwide approach to markets, production and/or operations in several countries. Well-known MNEs include fast-food companies such as: McDonald's (MCD), YUM (YUM), Starbucks Coffee Company (SBUX), Microsoft (MSFT), etc. Other industrial MNEs leaders include vehicle manufacturers such as: Ford Motor Company, and General Motors (GMC). Some consumer electronics producers such as Samsung, LG and Sony, and energy companies such as Exxon Mobil, and British Petroleum (BP) are also multinational enterprises.

Multinational Enterprises

- ▶ Multinational enterprises range from any kind of business activity or market, from consumer goods to machinery manufacture; a company can become an international business. Therefore, to conduct business overseas, companies should be aware of all the factors that might affect any business activities, including, but not limited to: difference in legal systems, political systems, economic policy, language, accounting standards, labor standards, living standards, environmental standards, local cultures, corporate cultures, foreign-exchange markets, tariffs, import and export regulations, trade agreements, climate, and education. Each of these factors may require changes in how companies operate from one country to another. Each factor makes a difference and a connection.

Classification of International trade transactions by trading criteria

1. Directions of trade

1.1 Main

1.2 Supporting

2. Subject of transaction

3. The degree of self-sufficiency