Business expansion: arbitration clauses for international contracts

Law

Business law

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The distribution contract between Castilla S. L. and New Jersey Inc. is a distribution agreement. Like every other contract, there has to be an offer and acceptance for the contract to be enforceable (Elliott, and Quinn, 2013). The two corporate entities enter into a distribution agreement to distribute chattels produced in the United States, Spain, and parts of Latin American. The two corporate entities include an arbitration clause in the contract as a reflection of the good business relationship existing in their business operations. According to Friedland and Paul, (2007), the arbitration clause serves as an alternative dispute resolution, whereby a qualified third party is involved to resolve any disputes that may arise. Such a clause ensures that the companies do not incur litigation costs in case a dispute arises (Friedland and Paul, 2007). Both firms seem to breach the contract in the following ways;

New Jersey Inc. delivers defective products to Castilla S. L.,

Castilla S. L. delays deliveries to New Jersey Inc.

The two firms may choose to negotiate on how to eliminate the inefficiencies within the distribution agreement. Negotiation would be the best possible ADR because the two firms did not involve outside parties when establishing the agreement; that is, third parties would breach the virtue of confidentiality. In the case where they fail to establish a common ground, the two firms may opt for arbitration (Charman, 2013). The dispute may be submitted to impartial persons with the relevant expertise to handle the issues. Such persons may include; an accountant to check the financial statements for New Jersey Inc., an auditor to assess the internal controls in each firm, and a quality-check personnel to establish whether the deliveries from New Jersey Inc. meet the required standards.

According to Cohen and McKendrick, (2005), the best possible remedy for the dispute would be specific performance. Both firms may be required to correct the deficiencies inhibiting the effectiveness of the distribution agreement. New Jersey Inc. should ensure that the products delivered to Castilla S. L. meet the quality standards stipulated in the agreement. On the other hand, Castilla S. L. should ensure that deliveries are timely. Specific performance would eliminate the cause-and-effect relationship of the conflict.

The main reason why the firm decided to include the arbitration clause and ADR provision is to eliminate the need for complex litigation processes that would ruin the business relationship.

Reference List