

Sommereksamen 2018

Ordinær eksamen

Skriftlig prøve i: 460141E035 International Business Law

Varighed: 3 timer

Hjælpemidler: Alle

Type

- 3-hour exam.
- WOAI: On-site written exam with upload of the exam paper in WISEflow, use of the internet allowed during the exam, own PC required.
- The WOAI examination format is applicable.

Note

- All students should read the exam guidelines and instructions carefully, and read the entire exam paper before writing their answers.
- Students must cite their sources throughout their answer paper appropriately and accurately.
- Students should include a full bibliography of academic literature, case law (where relevant), and all sources used as a reference in their answer paper.
- Students may use a footnote/reference manager (eg. EndNote, Mendeley, Zotero, etc.) to assist them in keeping track of their references.
- Students may use any citation method they use, as long as it is used consistently, and it is clear and unambiguous.
- Students should make sure that they are answering their chosen questions as articulately as they can.

Format

- There will be five questions in total on the examination paper.
- Of those five questions posed, students must answer a total of **three questions**. They must select their questions in the following way:
 - o Students must answer the single question from **Section A** (Question 1).

- Students must answer one question from **Section B** (Question 2 or 3).
- Students must answer one question from **Section C** (Question 4 or 5).
- In their answer paper, students should make clear which questions they are answering.

Technicalities

- The answer paper should have page numbers.
- The answer paper should be completed with the main text in the Times New Roman font, size 12, spaced 1.15, and justified.
- The same applies for the footnotes, except for the font size, which should be 10.

Exam Paper

Illums Bolighus is a small chain of interior design stores, primarily based in Denmark, but also with locations in Sweden (Stockholm and Malmö), Norway (Oslo and Bergen), and Germany (Hamburg) – including a single store on Jutland, in the Meulengrachtse Mansion on Lille Torv, in central Aarhus.

Founded in 1925, it takes pride in the fact that it sells exclusive Danish and other international design, architecture, and other innovative products, that are a “paragon of classic and contemporary design”. Its stores intend to not just be an ordinary retail experience, but are also locations that are visionary, staying ahead of contemporary design. The company was founded upon “a strong sense of aesthetics as well as a flair for business”, and strived to have a business centred on their products being at the intersection of art and functionality. Ultimately, the business wants to be “an attractive and inspirational shopping environment that is always at the cutting edge” of the sector.

Whilst many of the goods that *Illums Bolighus* sell are Danish design, they are not in fact Danish goods. Rather, many of the goods are manufactured outside of the European Union, and therefore, are goods that have to be imported into the EU customs union by companies in Europe. In Spring 2018, *Illums Bolighus* concluded an international contract were expecting a large delivery of goods that they had ordered through a French company, in anticipation of the busy summer season that was ahead, given the large amount of tourists that frequent their stores, particularly from North America and Asia, who wish to take “Danish” products home with them, following their travels in Northern Europe. However, when the large delivery of goods did not arrive on the expected date, and *Illums Bolighus* began to make enquiries to see when the goods were going to arrive.

It subsequently transpired that the seller, based in France, said there was going to be a delay in the delivery of the goods, which were coming from China, and whom could not provide an explanation for why the delay had occurred. Furthermore, the seller said there was nothing that could be done about the delay, and *Illums Bolighus* would just have to patiently wait for the delivery. It is getting close to the busy summer season, and the managers at *Illums Bolighus* were getting anxious that they may miss out on selling the goods to potential customers.

Questions

Section A

Question 1

Based on the situation that *Illums Bolighus* find themselves in, there are a number of legal matters that arise.

From a legal perspective, outline the main obligations of the parties, from both the buyers and sellers perspectives based on what we know from the United Nations Convention on Contracts for the International Sale of Goods (CISG). Furthermore, if there has been a breach of contract by one of the parties, explain what remedies may be available to each of the parties.

Within your answer paper discussing a) the obligations of the parties, and b) the available remedies, be sure to make to include and reference to the relevant provisions of the CISG, as well as academic literature to support your answer.

Section B

Question 2

It may appear, but it cannot be certain, that there may be an issue with the French seller bringing the goods in question from Asia into Europe, for them to be sold to the Danish buyer.

Outline the legal regimes governing a) the EU's customs union, and b) the free movement of goods within the EU.

In your answer paper, ensure you make reference to the relevant provisions of the EU treaties, the relevant case law of the Court of Justice of the European Union, and any academic literature to support your answer.

Question 3

Illums Bolighus is considering opening a new store in Finland, where it has not been previously located.

Detail the legal regime concerning the freedom of establishment within EU law.

In your answer, make reference to the relevant instruments of EU law, including the articles in the treaties, and how the jurisprudence has developed to allow companies establish themselves in other EU Member States.

Section C

Question 4

Distribution and delivery of goods are a challenge for any company that engages in cross-border trade and commerce. This is due to the reality that there are additional risk factors that have to be taken account of.

In the course of the business transaction that *Illums Bolighus* have engaged in, something has appeared to have gone wrong.

Taking into account the legal regimes governing international sales law, detail the risk and delivery considerations that are applicable for businesses. In your answer, be sure to reference relevant international legal instruments such as the CISG, and other relevant items that may be considered when engaging in international contracts.

Question 5

From the perspective of EU law, what considerations should *Illums Bolighus* have with respect to competition law?

In your answer, by looking to the rules contained with Article 101 TFEU, detail what forms of commercial activity are restricted and prohibited. Furthermore, you may make reference to secondary legislation, and relevant case law of the Court of Justice of the European Union.