

INTERNATIONAL AGREEMENT CHECKLIST

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Expanding your company internationally can be a great boost to your reputation, prestige and business income. However, in the cloud of excitement of doing international business, don't forget your legal and business common sense.

It's routine for companies/individuals to assume problems will not come up and with a hope and prayer go forward. It's not until a payment is missed or a dispute arises that the dire consequences show up.

What things should you be keeping in mind? Here are ten tips to help things go smoother:

1. Read the Agreement. This may sound blatantly obvious, but it is surprising how often people do not *entirely and thoroughly* read what they sign. Its not be until a problem comes up that people find they agreed to something highly unfavorable to them. For example, many agreements have forum clauses that require a lawsuit to be filed and tried in another state or country. Having to pay for translation of documents, or having to fly to another country to find witnesses and be part of a lawsuit can be very expensive. Agreements also can have very specific terms on payments, default, how to enforce payment, and who gets attorneys fees.

It is critical to read all of the agreement, to think about its terms and to understand what responsibilities both you and the other party have.

2. Ask Questions- Don't Assume. If you are unsure about a clause in your agreement or how something will be carried out ask before you sign/it becomes a problem. This too can seem evident but it is impressive how many times the failure to ask a simple question leads to significant issues. For example, often when you place an order in another country, you don't agree on/fail to consider the place of delivery. Do not assume shipment will be your work or home or even that it will be made to a home address. If you fail to clarify this often products will come into your nearest port and then you are responsible for the rest of the way.

Always clarify the details and, if you don't understand something or are unsure don't assume, ask, ask, ask.

3. Think About Issues Before They Arise. Imagine all the steps of the transaction in your head. Think of it from beginning to end. When do you have to send out the shipment or provide the service? Is there a deadline? When is payment due? Upon delivery? Upon signing of the Agreement? Who is responsible for what? Also, think about all the things that could go wrong and how you would handle them. What happens if

something gets lost in transit? What about returns, exchanges, fire or theft? What happens if you or your affiliate is sued by a third party? Whose insurance covers what? If a dispute arises where will you litigate? Talk to the other party about these things beforehand and look at your contract to make sure these issues are covered.

4. *Become at Least Somewhat Familiar With the Country's Laws.* I'm not suggesting you memorize corporate and tax codes. I am strongly encouraging you to do a general search for trade, contract, business and tax laws in the foreign country where you will do business. Become familiar with their court procedures and give a glance at how you would file a case in court.

Litigating quality control issues or contract disputes is often non-existent in other countries. For example, unlike in the United States, in France, employment laws make it very difficult for an employee to be fired, even when the employment is at-will.

Whether you are opening a store internationally, producing items that need to pass quality control inspections, or entering into a business agreement, it is crucial for you to know what you are getting yourself into and what laws may apply to your situation.

5. *Do Your Due Diligence.* If you are having products made in other country make sure you research who you are doing business with. Some opportunities may be too good to be true
Google does wonders - even when dealing with international companies. Look in forums to see if anyone has posted negative comments. Even running simple search engine searches can yield very useful information.

You can also ask the company to provide you their business license and official corporate documents. Even if they are in a different language and you don't understand them, you will look smarter simply by asking. Asking for references is also very helpful. Do not trust the company simply because they have a website and they have someone who can communicate with you in English, always research them to assure they are reputable.

6. *Put it in Writing.* Small businesses sometimes don't want to go through the hassle of putting things in writing. Reputation, honor and promises are relied on for business deals. You don't have to put everything into a ten page agreement, but you would be surprised how often failure to document leads to anger, hatred and incredibly high legal fees. People recant their stories or remember things differently in hindsight.

If you want to keep things simple, or you don't think the situation warrants an agreement, send a confirming email or letter outlining what you spoke about and informing the other party to immediately notify you should the letter not be in accordance with your agreement or understanding. It takes a few minutes to do this and can save you a lot of trouble down the road.

7. Think Before You Speak. Our human emotions get the best of us and we send an email, a letter or make a phone call that we should not. In some jurisdictions, for example, immediately saying you are sorry after an accident means you are admitting guilt. While it is good for you to be human and act empathetically it's also good to not immediately react with apologies, hate mail or emails stating your position. Almost everything you put into writing (or that can be witnessed by others) can be brought before a judge and used against you. Think carefully before you act, it could cost you thousands.
8. Check With The Government. It's surprising how easily laws can be broken by importing and exporting. There can be strict restrictions and taxes on the importing/exporting of American goods. You may also be required to obtain a license or a permit in order to engage in business in another country.

If you are unable to hire a local attorney to advise you, you may look into hiring an international business expert who is familiar with the importing and exporting of goods. If you are unable to do either, researching online and calling different governmental offices, both locally and at a national level, is essential.

9. Company Structure. Consider whether you want to create a separate entity to work and operate in another country or whether you want to be a US company doing business in another country. Both can have very different implications in how you run your business and what laws affect you.
10. Get to Know The Culture You Are Dealing With. I once had a man leave a meeting in the middle of negotiations. In my mind we were negotiating, he became angry and negotiations came to an end. In his mind, he was clearing his mind and being strategic. Ten minutes later he came back and things ran smoothly. I cannot sufficiently understate the importance of getting to know the culture you are dealing with. In France, lawyers attend litigation hearings in special suits. Who would have known?

It is very important to get to know the culture you are dealing with. It can make the difference between success and failure - You don't want to offend another culture with your inadvertent behavior, especially

when there are so many resources out there regarding cultural etiquette.

All of the above being said, do not be afraid of doing business internationally, simply be informed and educated.

** The information provide in this article is for informational purposes only and is not intended to serve as legal advice. If you have an inquiry related to International Business or on any legal matter, it is advised that you seek the assistance of an attorney.*