

Business Environment in China: legal framework, negotiations and experiences, tips.

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Legal framework (I)

- Chinese legal system based on civil law (but the first definition of “contract” dates back to 1986 only)
- IP protection system is improving
- Several regulations (also at local level) and a number of permits (and related different interpretations) and authorisations have significant impact

Legal framework (II)

- Nevertheless, also in China the structure of the agreements where foreign investors are involved tends to conform to internationally accepted model contract
- The risk of bilingual contract
- A common approach to be carefully avoided: the use of model contracts available in internet

Negotiations and experiences (I)

- Generally speaking, the purpose of a negotiation for a Chinese party might not be that of achieving efficiency and profit, but rather the satisfaction of “balance and harmony” in view of general interest
- Negotiations are conducted by teams, which need internal discussions (time consuming according to foreign standards and time-tables)
- Normally, the decision-maker is not part of the negotiation team
- There might be more decision-makers

Negotiations and experiences (II)

- The approach to the duration of the negotiations is then an issue
- The same matter is likely to be considered and negotiated several times
- A different perception of time
- Indirect approach to certain provisions (e.g.: this provision might not been approved by that specific authority; this is against our Board's policy and the like)

Negotiations and experiences (III)

- The structure of the foreign team
- Listen to your possible future partners (and refrain from talking too much!)
- “Guanxi”?
- ...and bear in mind that: the contract is not “the agreement”, but it defines “the spirit”, the framework of the future relationship

Tips (I)

- China is first of all a huge market: do not go to China to save on labour costs
- Have long-term strategy
- Be ready to invest time and resources
- Funding the initiative on a long term basis
- Protect your IP well in advance
- Be patient
- Continuous follow-up after the execution of any agreement

Tips (II)

- Use the right professionals and advisors
- Be ready to have a team or at least an individual who is constantly involved with your China business / partner
- Do not rely on the contract only: build your relationship

Thank You!

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