

Chinese Contracting Best Practices

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There are many risks involved in dealing with Chinese companies.

We previously discussed [The Importance Of China Due Diligence And Corporate Seals](#).

And we asked the probing question: [Is The Era Of Cheap Goods From China Over?](#)

Notwithstanding these concerns and others, the availability of comparatively inexpensive goods from Chinese suppliers will often convince an American company to accept China-related risks because of margins that hold the promise of strong profit potential in the marketplace.

If you decide to do business in China there are other risks that need to be managed. One of these is the risk of late delivery. Anecdotal evidence suggests that delivery problems with China based suppliers occur more frequently than with domestic suppliers. And solutions and remedies for damage caused are less effective.

So how does one ensure that delivery is on time when doing business with an OEM or manufacturer in China?

A recent [article](#) on The China Law Blog suggests that the first step is to make sure that you clearly agree on a delivery date in the contract, a test the contracting parties often fail. Delivery in 30 days? When does the 30 day period begin? Contract signing? Issuance of purchase order? Receipt of initial payment?

These may seem like elementary matters but the prevalence of confusion in real life situations dictates the importance of using an attorney with solid drafting skills and the value of executing the contract in Chinese so it can be easily read and understood by the supplier.

Even so, delivery dates can be missed. That's why checking the track record of the company you are doing business with is vital. But since references and past experience are not foolproof the article referenced above recommends that US companies also employ a solution used in many domestic supplier agreements. Namely, a liquidated damages provision that requires the Chinese supplier to pay an amount for each day delivery is late.

Clear drafting and a liquidated damages provision cannot ensure that a China based company will deliver timely, but they remain among the best practices to employ in contracting, whether your supplier is domestic or foreign. <http://bit.ly/NxcOHp>

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