

Business in china essay

[Countries](#), [China](#)



A country's legal system, with its associated rules and regulations are important considerations needed in evaluation before making a foreign investments in the home country. Legal systems, largely between countries and when not compatible with a foreign investors, can pose considerable risks to business interests. For example, when a foreign investors compare differences in laws and associated business risks between the two largest cities in China, Shanghai and Hong Kong, a contrast becomes apparent between the two.

One significant difference between the two cities was how “ Shanghai courts tend to favor Chinese litigants” (Ball, 2004, p. 280), which is an often complicated and drawn-out legal process making it nearly impossible for a “ foreign party to win a case against the Chinese party in a Chinese court” (Ball, 2004, 280). On the other hand, Hong Kong has an advantage over Shanghai with a more appealing law “ adopted from the British colonial days” (Ball, 2004, p. 280) and are more likely to abide by the favored arbitration decision process, forgoing the lengthy litigation court process.

An important law which a foreign investor may consider when determining its investment security in a country was known as international law.

International law comprised of both Public International Law and Private International Law. Public International Law covers legal relations between governments. It relates to diplomatic relations among nations, its rights, and obligations of sovereign nations. Private International Law, on the other hand, focuses on transactions of companies crossing international borders.

Important sources in the creation of these laws include the agreement between nations known as treaties. One example of a process wherein nations negotiate to create such treaties is the World Trade Organization (WTO). This is a multinational organization designed to establish and help implement the rules of trade between nations.

China has proven its willingness to abide by rules and laws when it joined WTO in 2001. This willingness was also echoed by China's Commerce Minister Bo Xilai statement, indicating that since China's entered to the WTO, they have already revised more than 2500 laws and regulations, forming a set of foreign trade law systems in accord with WTO rules and regulations. (The Economic & Commercial Counsellor's Office of the Embassy of the People's Republic of China in the Kingdom of Saudi Arabia, 2004).

As for contract laws, the related confidence and the sense of security which a foreign investor may see, China has also proven itself as a worthy market when it joined the UN Convention on Contracts for the International Sale of Goods ("CISG"). Along with the United States and many other countries, China was one of the earliest countries to join this organization in 1980. They have also established legal rules uniform to many to help in governing international sales contracts and the rights and obligations of the buyer and seller.

In the 1990's, China's foreign trade volume increased greatly, and with this influx of foreign investment came numerous trade issues. This issues were noted as a likely result of the pre CISG legal court proceedings system where General Principles of the Civil Law, the Law on Economic Contracts involving

Foreign Interest, the Economic Contract Law regulated foreign trade and preliminarily constituted China's contract law system (HHP Attorneys-at-Law, 2003).

This system was seen as having many flaws and lacked the direction to cover many issues in the international trade of goods. With the introduction of CISG in 1980, China now had a reference to improve its contract law system. With CISG, "Chinese courts and arbitration institutions had more specific stipulations to apply when treating the disputes arising from international trade of goods".

Also, Chinese foreign trade operators had a set of stipulations that were universally accepted to follow when they concluded contracts with foreign clients" (Attorneys-at-Law, 2003). Overall, with the introduction and acceptance of the CISG, China has improved foreign traders' confidence in the Chinese legal system.

Intellectual Property includes; patents, trademarks, trade names, copyrights, and trade secrets and are all valuable private company assets which can put a tremendous financial burden on a company if infringed. With an objective to protect this intellectual property, international rules and laws which include Intellectual Property have been implemented.

In addition to China's acceptance of CISG, China has also attempted to improve foreign traders' confidence by setting up an intellectual property rights protection law system in accordance with the international rules and regulations, but in comparison to other countries unfortunately China lacks the

ability to control violations of intellectual property and has been repeatedly warned by U. S. government to conform or face trade sanctions.

China appears to understand the importance of improving its investment environment and has made many attempts to protect its foreign investor's intellectual property rights, but lacks the control and resources to police their large country (Ohiti, 2003). China has shown a small improvement to its legal framework and has also been responsive to the pressures of the National Working Group on Intellectual Property Rights Protection. This in turn, has been reflected by its success in shutting down some producers of pirated music.

However, Chinese piracy still remains rampant. Even with this known risk China has attracted and accommodated many foreign investors (Bird, 2006). Motorola was one of the companies, and has been regarded as a successful example of foreign investment in China. With an existence of over ten years, Motorola has set up seven joint ventures and seven wholly-owned companies, including one research center.

Another consideration a foreign investor may make when determining where to invest, is the way the countries deal with laws and the associated risk of product liability. In China, the basis of consumer protection law is the “General Principles of Civil Law 1986 (GPCL) 227 and The Contract Law of 1999 (CCL). 228” (Martin, 2006).

Both laws provide unity and understanding of expectations related to resolution of product liability issues. According to these laws, product

damage or physical injury to a person will be the responsibility of the manufacturer or seller. In addition to this, CCL also established laws that addressed “contractual concepts, fairness in good faith” (China-Window, 2008) and standard contract language with a focus on liability limits and exemptions between parties.