

PECULIARITIES OF ENTERING INTO CONTRACTS WITH PARTNERS FROM CHINA

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Dear colleagues,

Since Russia has been closely interacting with China in various fields over the past decades, many Russian representatives of small and medium-sized businesses are beginning to actively cooperate with Chinese partners. Russian businessmen who are not aware of the peculiarities of the Chinese mentality may encounter serious difficulties when signing contracts with Asian partners.

In this review we would like to draw your attention to the important features of concluding contracts between partners from Russia and China, which will help you to avoid a number of mistakes:

1. The only official language in China is Chinese. Thus, it is advisable to sign the text of the contract not in Russian and English, but *in Russian and Chinese* (the official languages of Russia and China).

If the Chinese partners do not insist on this, this can only mean that they do not intend to register the contract with the Chinese government authorities.

2. *The name of a Chinese company registered in China can only be in Chinese*, and the English name of the company is not legally valid to the full extent.

Chinese, as well as Russian, courts do not consider claims if the documents do not indicate the real (registered) company names.

3. It is necessary *to check the registration* of the Chinese company by requesting from the partner a certificate of registration of a legal entity, and also *make sure that its representative has the appropriate authority*.

It should be kept in mind that only the legal representative of the company has the right to sign a contract without a power of attorney. This may not always be the CEO of the company. The legal representative must be indicated in the certificate of registration of a legal entity.

If someone else signs the contract on the Chinese side, they are required to present a power of attorney. Therefore, when concluding a contract with a Chinese company, it is worth asking the future partner for a power of attorney confirming the authority of the signatory.

4. It is important *to check the registration (legal status) of the Chinese seal*.

Each Chinese company generally has one main seal, which is strictly controlled. However, to support various types of activities, companies often produce additional types of seals, including "contract seals." Having produced such seals, Chinese companies often do not amend the registration documents accordingly or otherwise register their legal status.

In this regard, it is recommended to check whether the Chinese partner's seal is registered by requesting a certificate from the State Commerce and Industry Administration of the government at the place of registration of the Chinese company. It is quite easy to obtain such a certificate, and falsifying it is dangerous for a Chinese partner.

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5. To protect yourself, it is recommended *to check the company's website*. The site must have a Chinese version, otherwise there is a high chance of encountering scammers. You should check the domain name registration date and ownership.
6. *In order to avoid difficulties with the recognition and enforcement of decisions of Russian courts in China*, it is recommended *to introduce an arbitration clause and include in it one of the well-known institutional arbitration centers in China*, for example, the China International Economic and Trade Arbitration Commission (CIETAC), the Beijing Arbitration Commission (BAC), etc.

On the one hand, this will require additional costs for contacting Chinese lawyers or Russian specialists with experience in representing the interests of parties in Chinese arbitration. On the other hand, *this will simplify the issue of recognition and enforcement of the decision* under the New York Convention of 1958.

If the Chinese partners do not want to resolve the dispute in arbitration due to the high cost of the procedure, then, in order to avoid difficulties with the recognition and execution of decisions of Russian courts in China, it is better *to establish a clause for those disputes, for which this is possible, regarding their resolution in a Chinese state court, since Russian courts readily recognize decisions of Chinese courts*.

We will be happy to answer your questions!

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