

EXPORT GUIDELINES


How to deal with export formalities

How to use the guidelines


IN ORDER TO FACILITATE THE READING AND THE USE OF THESE GUIDELINES, WE DESIGNED THEM ALONG THE SAME LINES.

The guidelines are classified in 6 categories:


- **NUMBER OF THE GUIDELINES + HASHTAGS** indicates the number of the guideline and 4 hashtags specify main key-words.
- **OBJECTIVES** defines the goal of the guideline.
- **DESCRIPTION** presents the main subjects that will be developed in the "content" section.

GUIDELINE 

#hashtag

OBJECTIVES 

Goal of the guideline.

DESCRIPTION 



• Main subjects

- **CONTENT** develops the topics written in "description".
- **TIPS & TRICKS** gives you general advice following the topic of the guideline.


TIPS AND TRICKS

Advice following the guideline.

- **FURTHER INFO** helps you to go further by following the useful links to find more by yourself or gives you experts' contacts.

FURTHER INFO  

Useful links:
Contact person:
 Name Surname - function
Email: name@agency.com | **Mobile :** + 32 0 000 000

 We hope that you will enjoy the reading and that they will be helpful for your exporting projects. We wish you good luck and lots of achievements.

#8 VAT for international sales

GUIDELINE #8 #VAT #sales #criteria #international	OBJECTIVES ★ All you need to know about VAT at international level.	DESCRIPTION 👉 <ul style="list-style-type: none">• Introduction: VAT in a nutshell• Transactions<ul style="list-style-type: none">- Local supply of goods- Intra-community supply of goods- Intra-community acquisition of goods• Import• Export
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CONTENT

INTRODUCTION: VAT IN A NUTSHELL

5 basic questions:

1. Has the transaction been carried out by a taxable person?
 - “Any person who independently, carries out in any place any economic activity, whatever the purpose or result of that activity”.
 - A VAT taxable person can be a:
 - Physical person
 - Body of persons
 - Public institution
 - Legal person (e.g. company/ corporation)
 - Any other entity capable of carrying on an economic activity.
2. Is it a taxable transaction for VAT?
 - The supply of goods or services are subject to VAT if they are:
 - Taxable supplies
 - Made by a taxable person acting as such
 - Made by way of an economic activity
 - Made in the relevant country
 - The importation of goods by any person is subject to VAT.
 - The intra-Community acquisition of goods by a taxable person is subject to VAT.
3. Where does the transaction take place for VAT?
Supply of goods
 - Main criteria: always follow the flow of the goods.

- Supply of goods without transport: place where the goods are put at the disposal of the customer.
- Supply of goods with transport: place where transport begins, place where installed/assembled.

Intra-Community acquisitions

- Place is the place of arrival of transport.
- Security net :
 - Purchaser provides VAT ID number of Member State other than that of arrival of the transport:
 - Intra-Community acquisition in Member State that granted VAT ID number.
 - Unless taxation according to general rule (the place of arrival of transport) is proven by taxable person.

Import

- Place where goods enter the EU (released into free circulation)
- Unless:
 - Goods are immediately placed under a customs transit regime upon entrance in the EU.
 - Place where goods are retrieved from the transit regime (released into free circulation).

4. Are there any exemptions from VAT?

- There are normally three VAT treatments that are applied:
 - Taxable: VAT charged on supplies, input tax is recoverable on purchases.
 - Exempt with credit/zero-rated (intra-Community supply, export,...): no VAT charged on supplies, input tax is recoverable on purchases.
 - Exempt (financial, medical,...): no VAT charged on supplies, input tax is NOT recoverable on purchases.

5. Who is liable to account for the VAT due on the transaction?

- The person can be the:
 - Supplier of a good or service.
 - Importer of the goods.
 - Customer in specific situations.
 - Person who makes the acquisition of goods under an intra-Community acquisition.
 - Tax representative.

TRANSACTIONS

- Local supply of goods

Def: goods are not transported outside the country.

General rules:

- Place of supply = place where they are put at the disposal of the customer.
- Debtor of VAT = supplier of the goods.
- Derogation: reverse charge for non established companies – to be checked country by country.

Importance of the establishment when the goods are supplied locally to determine the VAT treatment in Belgium (purchase side by BE company):

- The supplier is established in Belgium and files periodical VAT returns: Belgian VAT is due by the supplier.
- The supplier is not established in Belgium but has appointed an individual fiscal representative: Belgian VAT is due by the BE established client through the reverse charge mechanism.
- The supplier is not established in Belgium but has a Belgian VAT number: Belgian VAT is due by the BE established client through the reverse charge mechanism.
- Intra-community supply of goods

Def: goods are transported from one Member State to another Member State.

General rules:

- Place of supply = Member State where transport begins.
- Exemption, yes with proof of transportation, verification of VAT number of customer.
- Intra-community acquisition of goods.

Def: mirror image of intra-Community supply

General Rules:

- Place of acquisition = Member State where transport ends.
- Exemption of VAT: in principle not.
- Debtor of VAT: person performing the intra-Community acquisition – VAT has to be self-accounted for right of deduction.
- In case no invoice received, obligation to draw up a document.



IMPORT

Def: goods are brought into the European Community.

Place of importation:

- Country of arrival of the goods.
- Or, if upon arrival in EC goods have been placed under customs procedure – Member State in which the goods are withdrawn from customs procedure.

Who can act as importer of the goods for VAT purposes:

- The customer (or owner).
- The supplier or previous supplier.
- In some cases the consignee or the toll manufacturer.
- VAT can only become payable upon 'importation': VAT will become due:
 - Upon entrance of the goods into Belgium.
 - Upon withdrawal from the customs suspension procedure.
 - Upon the moment the customs duties are due.

EXPORT

Def: goods are sent outside the European Community.

Place of exportation

- Where the transport begins.

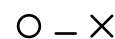
Conditions

- Valid export document.
- Proof of transport outside the EU.

TIPS AND TRICKS

- Public bodies shall not be considered as taxable persons in respect of the activities carried out as public authorities.
- The exporter for VAT purposes is the VAT number mentioned in box 44 of the export declaration.

FURTHER INFO



Useful links: /

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#9 EU rules applicable when dealing with foreign markets within the EU

GUIDELINE #9	OBJECTIVES ★	DESCRIPTION 👉
#Europe #rules #supply #acquisition	Understand the requirements in order to adapt goods or services to foreign markets within the EU	<ul style="list-style-type: none"> • Some definitions • What to take care of when a company is active in the EU, outside Belgium. <ul style="list-style-type: none"> - Products - Services - Fiscal - Social - Languages - Other

CONTENT

SOME DEFINITIONS

Export: Sell and deliver national products abroad. (source Larousse dictionary)

Reality is more complex as a Company /Business has first to comply with legal and fiscal rules

It is possible to do :

1. National operations (B2B, B2C) are subject to national VAT.
2. Delivery of goods in the European Union outside Belgium (B2B) that is free of VAT in the country of the supplier is officially called 'intra-Community delivery'.
3. Delivery of goods outside the European Union that is free of VAT in the country of the supplier is officially called 'export'.
4. Delivery of 'intellectual services' outside Belgium (B2B) that is free of VAT in the country of the supplier is officially called 'services'.
5. Delivery of 'non intellectual services' outside Belgium (B2B, B2C) will be free of VAT in the country of the supplier but the supplier will have to be fiscally registered in the country of the client and apply VAT of the country of the client (more obligations can be imposed by foreign authorities).

WHAT TO TAKE CARE OF WHEN A COMPANY IS ACTIVE WITHIN THE EU OUTSIDE BELGIUM.

Products

When dealing with products and services, a Belgian company has to comply with Belgian rules applicable :

- Conditions of manufacturing: the food sector is controlled by AFSCA - Federal Agency for Health Safety. For example, it controls the plant but also issues certificates for some products that are required for commercialization but also according to EU rules for certain products to fit with EU and destination country rules (labelling for example).

Find more about the rules by following the link in the "useful links" section.

- "CE" marking in products: the company that labels the products with the CE mark certifies that the products comply with the EU rules applicable to this kind of products. It is just a self-certification without any EU control but is mandatory for some kind

of products (electronics, etc.).

Services

1. The Intellectual Services are the ones performed by consultants (study of feasibility and achievement of a project for example), adviser (fiscal or legal matter), experts (supervision on job site, etc.). The supplier can invoice from its Belgian company in exemption of Belgian VAT without any specific formality. (NB: meanwhile, Bulgarian fiscal authorities impose a withholding tax on the invoice if billed from a foreign VAT number)
2. The Non intellectual Services imply that the supplier is present in the country of the client with its employees/ workers or equipment to perform a contract. Therefore, the supplier must be registered in the country of the client and invoice from a VAT number granted to him upon request by the Fiscal Authorities of the client's country. The supplier can also be subject to comply with all national rules imposed by authorities in the country of the client (social security, income tax for activities carried out locally).

As Intellectual Services are rendered from the Seller from Belgium, there is no special rules applicable in B2B services. The Belgian company can invoice from Belgium in exemption of Belgian VAT. VAT will be paid/recovered by client in its EU country. It is recommended - before accepting such contracts and/or orders from clients - to check if the Belgian company has the necessary requirements to perform such services in the client's country.

It is not required to create a branch or a subsidiary in a foreign country within the EU.

A Belgian Company can have a VAT number in any other EU country as EU companies are free to perform services in the whole European Union but it needs to comply with the rules of the client's country.

All Non Intellectual Services performed outside Belgium are subject to be registered for VAT in the country of the client as local VAT has to be invoiced to both, professional (B2B) and private (B2C) clients.

Fiscal

Selling products from Belgium in B2B to another EU country can be done from a Belgian VAT number and in exemption of Belgian VAT if a transport document is issued (CMR signed by carrier and indicating the place of delivery outside Belgium) => destination country VAT is paid and recovered by the client.

Selling products in e-commerce in B2C to private clients requires to be registered for VAT purposes in the country of the clients according to EU rules taking into account that some countries don't allow to be registered for annual turnover till around EUR 30.000 (to be checked carefully for each destination country).

Selling products directly on the client's territory at trade fairs, events, etc. in both B2B and B2C requires to be registered for VAT purposes in the countries of the client.

Intellectual Services rendered by the Seller from Belgium are to be invoiced from Belgium in exemption of Belgian VAT. VAT will be paid and recovered by client in its EU country.

All Non Intellectual Services performed outside Belgium are subject to be registered for VAT in the country of the client as local VAT has to be invoiced to both professional (B2B) and private (B2C) clients. A Belgian company active in a foreign country exceeding six months in a civil year in a foreign country is subject to Income Tax for related business.

Social

Sending workers and/or employees abroad requires to comply with Belgian, EU and destination country rules.

The most important document is the portable document « A1 » that is issued by the authority from the country where the worker is covered by Social Security (valid for the European Economic Area).

Should the worker/employee be located in a foreign EU country for more than 6 months in a civil year, they would be subject to Personal Income Tax in this country.

You can find more info on youreurope website, by following the link in the “useful links” section.

Languages

Language is a key issue to deal across the European Union.

If English seems to be an universal language, it is really not the case when dealing with products or services to private clients (B2C) as rules requires exporters to address all information, contractual documents, labelling and/or user’s guide, call centers in their national/ regional language. For professional clients (B2B), rules change in the various EU countries for both goods and services. Do not forget that when dealing with entities abroad, applicable law has to apply to order and/or contract. It means that, in case of litigation to be settled by a court, all contractual documents have to be translated in the language of the court. (Except in a few EU countries like Sweden where it is possible to use English).

Other

Many other rules are applicable and both ruled by the EU and EU member countries such as:

- Public tenders
- Private companies acting in public services likes communication, energy, transport...
- Agreement of products such as pharmaceutical products.

TIPS ANS TRICKS

- Social aspect: if a worker/employee is sent to a foreign country for 2 months 6 times within a year, they do not have to deal with the personal income tax in the foreign country.
- According to your activity sector, there may be some rules you have to comply with, which are not relevant in other sectors in the same foreign country.

FURTHER INFO

Useful links:

- Rules imposed by EU and destination country in EU relating to products.
<https://credendo.com/en/country-risk>
- CE marking on products : all you need to know.
<https://www.awex-export.be/fr/marches-et-secteurs>
- Your Europe: guidelines and social security rules: posting staff abroad
https://europa.eu/youreurope/business/human-resources/posted-workers/posting-staff-abroad/index_en.htm

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#10 Customs formalities at exportation

#10

GUIDELINE

#customs
#clearance
#origin
#law



OBJECTIVES

The right strategy to be efficient in export: where to keep your attention when dealing with customs formalities at exportation.



DESCRIPTION

- Key components of customs law
- Export customs clearance
- Classification
- Origin
- Valuation
- The role of a customs broker

CONTENT

KEY COMPONENTS OF CUSTOMS LAW

- World Trade Organization

The General Agreement on Tariffs and Trade (GATT) sets the principles of customs law for imposing global rules aiming at providing guarantee and stability. These rules deal with: imposing tariffs, creating free trade areas, defining fundamental concepts such as origin, and customs value.

- World Customs Organization

The Revised Kyoto Convention deals with customs regimes' simplification and harmonization between parties. Within the WCO, some other international conventions have been concluded:

- The International Convention on the Harmonized System (Convention HS) fixes the basic structure for customs classification worldwide (first 6 numbers).
- The Istanbul Convention deals with temporary admission.

- EU Customs Law

- Customs is an exclusive competence of the EU except when it comes to criminal law (Art.3 TFUE).
- Therefore, the EU Customs Code directly applies in the legal system of all Member States.
- It is completed by Executive and Delegated Acts, as well as by Trade Agreements concluded between the EU and non-EU countries.

- Obligation to submit a customs declaration to the customs authorities containing: Origin of products, value of products, classification of products...

- Customs regulation is related to: customs duties, excises & Energy levy, VAT on import, common Agricultural Policy (Export refunds), anti-dumping duties, environmental Taxes.

EXPORT CUSTOMS CLEARANCE






Check-list: What are the key steps in export customs clearance?

The tasks that you will need to perform to clear your shipments might include:

- Obtaining an EORI number:
An EORI number is a European Union registration and identification number for businesses that want to import or export goods into or out of the EU. It is assigned by the member state where your company is established. Once you have an EORI number, this will be valid in all other EU member states.
- Ensuring that the items you wish to ship are not prohibited for export.
- Ensuring the same items are not prohibited in the country of import.
- Obtaining certificates of origin for the items you are exporting (preferential versus non preferential).
- Obtaining export licenses or permits for your goods, if required.
- Filing an export declaration for each shipment, either electronically or manually (in BE, PLDA).
- Determining the classification code for the materials or products you are exporting.
- Determining the customs value of the product.

What are the primary export customs clearance documents?

- A printed version of the export declaration.
- A transport document, usually in the form of a bill of lading.
- A packing list.
- Certificates of origin for your materials or products.
- Insurance documents detailing the policy and conditions under which your shipment is covered.

 1. CLASSIFICATION OF THE PRODUCT	 2. VALUATION	 3. ORIGIN-ECONOMIC IDENTITY OF THE PRODUCT	 4. PROCEDURES BEFORE ENDING TO THE FINAL DESTINATION	 5. POST-CLEARANCE AUDIT
<ul style="list-style-type: none"> • You need to know the correct commodity code. • WCO Harmonised System Codes are global codes provided on (non-binding) basis. • Each country or customs union has its own customs classification. 	<p>Determining the correct value can be complex</p> <p>WTO Agreement on Customs valuation provides for elements that cannot be included in the customs value.</p>	<p>It is very important to claim the privilege under the relevant FTAs.</p> <p>The preferential origin of the goods allows to pay lower or 0% customs duties with the EU trading partners.</p>	<p>The business should obtain its EORI number and obtain access to customs management electronically (in BE PLDA authorization).</p> <p>Ali procedures (f.ex. customs declarations) can be done in such a system.</p>	<p>The EU authorities can verify the documentation even 10 years after the import took place.</p> <p>The EU and the other authorities will cooperate.</p> <p>Keep your records under control!</p>
<p>It determines the relevant customs duty rates at import</p>				

CLASSIFICATION

Why do we need to classify goods?

Fiscal measures:

- Identify the correct customs duty rate.
- Determine other applicable taxes, i.e. Excise duties, VAT rates.

Non-fiscal measures:

- Identify whether or not the goods are subject to quota.
- Determine whether or not anti-dumping duties are applicable.
- Gather statistics (Intrastat reporting EU Trade)

Origin

- Define the origin criterion (tariff heading)

Check-list:

1. Know your product and everything about it.

Who is my targeted audience (customers/ manufacturers)?

What are its objective characteristics? Its intended use? Its essential objective?

What materials is it made from?

What are similar/substitute products? (What products are my competitors?)

Are there any consumer preferences that influence the product?

2. Be aware of the classification struggles.

Is it a simple or complex product? Is it assembled?

Is it one or composite good? Is it a set? Is it presented together?

Can it be classified somewhere else? If so, based on which rules of interpretation?

Is there any decision that classifies a similar product (BTI (Binding tariff information)/ implementing regulation, Court's ruling)?

3. Take action!

Establish a compliance team, which will monitor legislative and regulatory changes.

Ask your engineers/ design team/ experts whether they agree with your idea for classification.

Confirm your analysis with customs.

If you are absolutely certain, lodge a BTI for a binding confirmation. Make sure you submit loads of evidence in your favour without leaving any doubt !

4. Despite internal compliance, something still went wrong.

If customs authorities do not share your view and classified your product elsewhere – demand reason.

Don't be afraid to go to court, if necessary. Even customs authorities make mistakes. Be sure you're right!

ORIGIN

The origin is the 'economic nationality' of the product.

The origin is not (necessarily): The country/region where the concerned goods have been shipped from or where the concerned goods have been produced.

The origin is:

- Determined based on specific regulation (decided at a world and EU level).
- Used (based on the product's classification) to determine the customs duties to be applied upon import.

TWO TYPES OF ORIGIN TREATMENT

ECONOMIC ORIGIN*	MFN, WTO rate
<i>*Non-preferential</i>	
<u>Attention point</u> Each product has always an economical origin ("made in")	
<u>Objective</u> Apply the trade policy measures (e.g. anti-dumping measures, quantitative restrictions, tariff quotas).	
<u>Applicable duty rate</u> <i>Erga omnes third country duty rate is applied upon importation (no preference upon importation).</i>	
<u>Applicable regulation (origin criteria)</u> EU customs code and the corresponding implementing provisions.	

TAX ORIGIN*
<i>*Preferential</i>
<u>Attention point</u> Some products can benefit from a preferential origin.
<u>Objective</u> Apply the (bilateral/unilateral) agreements signed by the EU with third countries/regions.
<u>Applicable duty rate</u> Reduced or zero duty rate is applied upon importation.
<u>Applicable regulation (origin criteria)</u> EU customs code, the corresponding implementing provisions and the concerned free trade agreement(s) (Protocol Origin) or autonomous arrangements (origin rules).

Rules to determine the origin of the product:

Case 1: Application of the "wholly obtained" concept:

This will generally be restricted mostly to products obtained in their natural state and products derived from wholly obtained products, such as:

- Mineral products extracted within that country.
- Vegetable products harvested therein.
- Live animals born and raised therein.
- Products of hunting or fishing carried on therein.
- Products of sea-fishing and other products taken from the sea outside a country's territorial sea by vessels registered or recorded in the country concerned and flying the flag of that country.

Case 2: Several countries are involved in the production process of the product:

Application of the "last substantial transformation" concept. Goods shall be deemed to originate in the country where they underwent their last, substantial, economically justified processing or working (in an undertaking equipped for that purpose and resulting in the manufacture of a new product or representing an important stage of manufacture).

How to prove the preferential origin?

- Some certificates are delivered and validated by the competent customs authorities upon request of the exporter.
- Other types of proof of origin rely on the principle of “self-certification”.
- Existing preference at the time of export, and at the time of declaration for release for free circulation.
- Possible post-exportation/ subsequent/ a posteriori verification by the customs authorities in the exporting country on goods which have already been exported to the EC under the GSP (Generalised Scheme of Preferences).

Checklist:

1. Know your product, master your supply chain.
 - Know the objective value of the goods that you are manufacturing and its components.
 - Understand the difference between sufficient and insufficient production methods.
 - Examine your supply chain, understand where your inputs are coming from.
 - The in/direct shipments and non-alteration rule.
2. Be aware of the rules of origin struggles.
 - Is your processing sufficient enough to allow you to claim the preference under the relevant trade agreement?
 - Can you claim preferential treatment for your products, if they are eligible for it?
 - Are you able to prove to the customs authorities the origin of the goods? Sufficient recordkeeping?
 - Do you have controls in place to make sure that your operations do not take away the preferential origin of the good?
3. Take action!
 - Apply for a binding origin ruling.
 - Be able to evaluate the origin of your product and structure of your supply chain.
 - Are you aware of duty drawback under the EU-UK TCA – can you claim it?
 - When in doubt, always ask.
4. Despite internal compliance, something still went wrong.
 - If customs authorities do not share your view and claim that your product originates elsewhere – demand their reasons.
 - Understand the methodology adopted by customs. Did they provide any evidence for their claims on origin of your goods?
 - Don't be afraid to go to court, if necessary. Even customs authorities make mistakes. Be sure you're right!
 - Seek support from PwC or PwC Legal. Settlement is always an option.

VALUATION

The process of determining the correct customs value has been laid down by the GATT/WCO in six calculation methods that have been incorporated in the EU legislation, being:

1. The transactional value (i.e. invoice value) of the goods when sold for export to the customs territory of the community.
2. The transactional value (i.e. invoice value) of identical goods sold for export to the customs territory of the community.
3. The transactional value (i.e. invoice value) of similar goods sold for export to the customs territory of the community.
4. The deductive method (resale minus).
5. The computed value (cost +).
6. Any other reasonable means.

Checklist:

1. Price it right! Know how much the product is worth!
 - Know the objective value of the goods that you are manufacturing and its components.
 - Make sure that you do not engage in unfair trade practices (selling goods below its value).
 - Know the relevant product market.
 - Know the relevant geographical market.
 - Be aware of competition law and prohibition on anti-competitive practices.

2. Be aware of the customs valuation struggles.
 - Transfer pricing and customs valuation will have different objectives. Always make sure that your goods, whether imported or exported, reflect the objective value of the goods.
 - Be able to understand the complex nature of your intra- and extra-company sales.

3. Take action!
 - Apply for a customs valuation ruling.
 - Include the right elements to the valuation of the good.
 - Make sure to exclude certain elements from the price declared for customs.
 - When in doubt, always ask.

4. Despite internal compliance, something still went wrong.
 - If customs authorities do not share your view and classified your product elsewhere – demand their reasons.
 - Understand the methodology adopted by customs. Did they provide any evidence for their claims on under-valued goods?
 - Don't give all your data ! It will give the opportunity for customs to 'find' something else.
 - Don't be afraid to go to court, if necessary. Even customs authorities make mistakes. Be sure you're right!
 - Seek support from PwC or PwC Legal. Settlement is always an option.

ROLE OF A CUSTOMS BROKER

Customs brokers clear shipments of imported goods, prepare required documentation for export shipments and collect duties and taxes at importation.

Direct And Indirect Representation

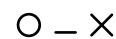
Representation in the customs declaration processes means that the party which has to lodge a declaration, outsources this to a representative: the customs agent. The law distinguishes between two forms of representation: direct and indirect.

- In case of direct representation, a customs agent lodges a declaration in the name of and on behalf of the stakeholder. The stakeholder is the declarant and, as such, responsible for the declaration. In the Netherlands, direct representation may be sought for the import, export and re-exportation declaration processes.
- In case of indirect representation, a customs agent lodges a declaration in his or her own name but on behalf of a stakeholder. A customs agent who acts as an indirect representative is the declarant and, as such, responsible for the content of the declaration. In order to be able to act as an indirect representative, a customs agent needs to be authorized as a Customs Broker.

TIPS ANS TRICKS

- An economic operator that does not know the law risks a visit from customs even 10 years after the relevant import/export.

FURTHER INFO



Useful links:

- Guidance for the understanding of the single administrative document: DAS (french)
https://finances.belgium.be/fr/douanes_accises/entreprises/douane/document-unique
- Guidance for the understanding of the single administrative document: DAS (dutch)
https://financien.belgium.be/nl/douane_accijnzen/ondernemingen/douane/enig-document
- Binding Tariff Information: BTI. Verify if you apply the correct classification to your goods and how it can be obtained:
<https://trade.ec.europa.eu/access-to-markets/en/content/binding-tariff-information-1>
- International Trade Centre: ITC: Rules of origin facilitator:
<https://findrulesoforigin.org/>

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#11 Different kinds of commercial contracts in international business

#11

GUIDELINE

#contracts
#terms
#business
#international

OBJECTIVES

Understand what is an agreement, when it is considered valid and which types of agreements are more common in international business.

DESCRIPTION

- Documents and agreements during negotiation
- Commercial agreements (contracts) in international business
 - Commercial agency agreement
 - Distribution agreement
 - License agreement
 - Franchise agreement
 - Joint-venture agreement

CONTENT

DOCUMENTS AND AGREEMENTS DURING NEGOTIATION

A commercial offer:

- Any form of proposal to sell or purchase.
- Can be verbal offer, quotation, catalogue, mail, sample, drawing, prototype, pro-forma invoice, etc.
- Unilateral commitment: The business will be bound by its offer, which must be clear and must set out its goods/services and their prices.

How to limit your commitment?

The offer must have:

- a date and a duration of the offer.
- a written confirmation or a down payment to be bound.
- a mention about your constraints: limited stock, personnel available...

Examples of agreements concluded during negotiations:

Confidentiality Agreement/ Non-Disclosure Agreement (NDA): agreement to never disclose to a third party any confidential information.

- Temporary Exclusivity for negotiation: agreement of a party not to negotiate/ enter into a contract with a third party for a limited period of time.
- Letter of Intent (LoI): it is like an embryo of a contract, a description of the status of ongoing negotiations in 2 or 3 main points, about certain commitments to do something, which can contain some rights/ obligations.
- Memorandum of Understanding (MoU): it is a summary of all rights and obligations of a contract in bullet points and not in detail. It usually precedes the drafting of a complete contract and it is used as a basis for it.

Example: MoU: duration: 2 years

Contract: duration : from 01/01/2023 to 31/12/2024

COMMERCIAL AGREEMENTS (CONTRACTS) IN INTERNATIONAL BUSINESS

Commercial agency agreement: key issues to be negotiated

- Exclusive area or sector, or not?
- Products or services to be represented (all range or limited range?).
- Rights and obligations of your company and the agent.
- Commissions (fixed, increasing or decreasing + the basis of calculation + payment terms).
- Transmission process of the customers' requirements and orders.
- Power of attorney to sign or not in the name of your company.
- Independence and freedom of the agent.
- Sales objectives, realistic, clear and controllable.
- Duration of the contract.

Distribution agreement: key issues to be negotiated

- Exclusive area or sector, or not?
- Products or services to be represented (all range or limited range?)
- Rights and obligations of your company and the distributor.
- Purchase prices: payment terms, delivery terms, warranty...
- Marketing plan and sales initiatives.
- Services performed by the distributor: installation, training, customer service...
- Sales objectives, realistic, clear and controllable.
- Duration of the contract.
- Causes of termination and indemnification.

License agreement: key issues to be negotiated

- Exclusive area or sector, or not?
- Products or services to be represented (all range or limited range?)
- Rights and obligations of the licensor and the licensee.
- Terms of transmission of know-how or technology.
- Manufacturing, marketing and services (installation, training, customer service...) by the licensee.
- Sales objectives, realistic, clear and controllable.
- Fees or royalties (fixed, increasing or decreasing + basis of calculating these fees, royalties + payment terms).
- Control procedure.
- Regular reporting.
- Intellectual property.
- Duration of the contract.
- Causes of termination and penalties.

Franchise agreement: key issues to be negotiated.

- 1 month cooling-of period (time to think).
- Information given to the franchisee (market research, list of costs, etc).
- Exclusive area or sector, or not?

- Products or services to be represented (all range or limited range?).
- Rights and obligations of the franchisor and the franchisee.
- Terms of transmission of know-how or technology.
- Manufacturing, marketing and services (installation, training, customer service...) by the licensee.
- Sales objectives, realistic, clear and controllable.
- Fees or royalties (fixed, increasing or decreasing + basis of calculating these fees, royalties + payment terms).
- Control procedure.
- Regular reporting.
- Intellectual property.
- Duration of the contract.
- Causes of termination and penalties.

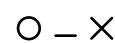
Joint-Venture agreement: key issues to be negotiated

- Content of the bylaws: name, subject, address, management, mandate...
- Input of each party, shareholding...
- Organization and management.
- Business and financial plan, objectives, strategy...
- Transmission of information and know-how.
- Intellectual property.
- Solutions in case of deadlocks and impasse.
- New associated parties in the future, exclusion of a party + terms and consequences.
- Duration of the contract.
- Causes of termination and consequences.

TIPS AND TRICKS

Always add your general terms and conditions to your offer.

FURTHER INFO



Useful links: /
Contact person: /



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