

INTERNATIONAL CONSTRUCTION CONTRACT: KEY CLAUSES

The International Construction Contract has become one of the international models of international contracts used most frequently since in recent years numerous construction projects and infrastructures have been made by Western companies (from Germany, France, Spain) in emerging countries. Due to local contractors' lack of experience, international contractors have carried out construction projects in developed countries and this situation is expected to continue. The same phenomenon has occurred in the house building sector in which there have been many companies that have internationalized their activities by performing real estate projects in foreign markets.

Although a standardized construction contract is unusual in each country, in international markets there is a mostly used **Model of International Construction Contract** that does not arise from the application of international regulations, but as a set of good practices recommended by different professional associations. In this model, besides the general conditions, particular conditions must be included, such as the contractor's economic offer, technical specifications of the project, the schedule of works, etc. We must bear in mind that some clauses of this standardized contract are not always in accordance with the law that the parties declare applicable to the contract and the legal requirements that may be applicable under local law of the place where the project takes place; that can render some clauses of the standard terms and conditions inapplicable or needing to be reinforced by greater demand, for example with regard to environmental, labor, quality or safety in construction, etc.

In any model of international construction contract there is a group of clauses that are considered relevant, including price, variations, delays in work, import of materials, expatriate personnel, currency, dispute resolution, and language.

PRICE

Pricing in international construction contracts can be set according to three systems:

- **Lump Sum System:** the Customer (called Employer) receives only the price set in the contract regardless of the expenses incurred during project implementation. This way the employer significantly reduces the risks that may arise during project implementation as a result of changes in prices of products or services that will be hired.
- **Unit Price System:** the parties agree on a price per unit and total construction contract value will be the sum of the units for the value of the unit. Each unit must include a value clearly representing the value of Contractor remuneration. The employer usually requires the contractor to prepare a list of units and values consisting of a list of work units and the value of each.
- **Cost Reimbursement System:** the price received by the contractor will be resulting from the cost that this has taken on the implementation of the project plus the profit.

VARIATIONS

Most international construction contracts include a clause that allows parties involved in the contract to change the terms of the contract concerning the works to be performed.

Through this clause the employer is entitled to modify the amount of work specified in the contract, the quality of the materials used in construction, the dimensions or size of the work, or the time for executing the work. Similarly, this clause regulates the contractor's obligation to comply with the orders of variation that are delivered by the employer.

DELAYS IN WORK

Each construction project has a work schedule that clearly and specifically determines the sequences and times that should be followed by the contractor during construction. It is appropriate that the contract contains a schedule that sets the order to be followed during construction. This schedule allows efficiently determining the work progress at certain periods of time and the dates of delivery.

It is uncommon to find a construction project that complies 100% with the provisions of work schedule. In most cases unforeseen circumstances occur that alter the normal development of the work. For this reason the contract documents must determine directly, or at least state who is responsible for delays in question and must assume the risk of delays. It should be stated the cases in which the contractor is responsible for delays in work, whether the contractor is responsible at all, and whether the contractor is entitled to a time extension that has been granted for the construction.

IMPORT OF MATERIALS

To carry out the work it is usual to import materials from neighboring countries or from the contractor's country. Imports usually generate a risk, therefore there occurs fluctuation of the market price of such materials and the possible variation of exchange rates if the materials are bought in currencies other than the one used in the contract prices. Additionally the entry of construction materials or equipment necessary for the work is subjected to local requirements such as licenses or customs tariffs. It will thus be necessary to establish in the contract which parties will take care of the formalities and import costs, since due to his contacts and knowledge of the local regulations the employer will often be better suited for dealing with such issues than the contractor.

EXPATRIATE PERSONNEL

Like the import materials, the entry of the contractor's personnel (expatriates) is also often subject to local requirements such as visas. For obtaining these permits and documents the employer will often be better suited than the contractor, so it will be useful to agree that and how the parties will cooperate in this regard.

THE CURRENCY

The exchange rate risk is one of the big questions at the time of pricing in international construction contracts. If the price is established in the currency of the contractor, the risk shifts to the employer and he would have to get enough currency to make payments at the agreed time. However, if the contract price is paid in local currency, it will be an important element of a risk to the contractor, especially in countries with significant fluctuations in the exchange rate or risk of high inflation. Therefore the parties use strategies such as establishing the pricing in a 'neutral' stable currency or the use of a reference currency to which the currency of payment is compared (e.g. establishing the price in US dollars or Euros). It is also common that the party which runs the exchange risk cover this risk through different financial instruments (exchange insurance and currency options).

DISPUTE RESOLUTION

In international construction contracts the clauses about dispute resolution and arbitration are of great importance due to the nature of the activity, the number and complexity of services provided in these contracts, the long time periods necessary to perform the work, and the international nature of the contracting parties. The subjects of litigation in these contracts are generally related to technical problems that are difficult to solve due to the fact that techniques and technologies involved in construction contracts are difficult to understand and always subject to change.

Despite this fact international construction contracts have evolved significantly with regard to conflict resolution and today we can say that these clauses clearly establish the form and procedures that the parties must follow to resolve conflicts arising in the execution of the contract. Contractual procedures become alternative methods of dispute resolution: they can and should be regulated in some way by the internal legislation of the countries.

LANGUAGE

In international construction contracts it is common to draft the contract in a bilingual version when the language of the contractor and the employer is different (English-Spanish; English-French, etc.). The specifics of the legal concepts in one language or another make it essential to determine which version must be predominant in case of doubt or contradiction in the translation; it is important that the language of the contract is consistent with the agreed court for conflict resolution in order to avoid (sometimes significant) translation costs in case of disputes. The language of the contract will not necessarily be the working language in the execution of the project, which should also be determined to ensure better coordination between the parties present on site.

Finally, when negotiating international construction contracts it will be crucial to establish excellent coordination between the technical team and the legal team of the parties involved to ensure that there are no loose ends in the contract to be signed that could generate disputes.



To obtain the Model of International Construction Contract click here: [**INTERNATIONAL CONSTRUCTION CONTRACT**](#)

NEGOTIATION AND ETIQUETTE GUIDES IN 70 COUNTRIES

How to negotiate and do business in **BRAZIL**

Introduction
Brazil is the fifth largest country in the world. It is a great agricultural power and very important in manufacturing of consumer goods. Brazil, with its rich natural resources, is an important and growing market. It is one of the first countries that are now an industrial industry already manufacturing. Brazil is the largest of the Latin American countries. Tom Coppen in China are represented in Brazil.



KEY FACTS

POPULATION 191.1m
AREA 8,511,965 sq km
FORM OF GOVERNMENT Federal republic (20 states and 1 Federal district)
GDP PER CAPITA (PPP) USD 1,200
COUNTRY RISK RATING (Global Risk) (Rating A1-A2-A3-A4-B-C-D)
CURRENCY Real (R\$) = 100 cents
OFFICIAL LANGUAGE Portuguese
LANGUAGE FOR BUSINESS Portuguese, Spanish and English
RELIGION Catholic (74%), Protestant and Evangelical (15%), an Islamic and traditional (5%)
CAPITAL Brasilia (Br)
MAIN OFFICE São Paulo (SP), Rio de Janeiro (RJ), Belo Horizonte (MG), Curitiba (PR), Brasília (DF), São Paulo (SP), Belo Horizonte (MG)
TELEPHONE CODE 55
INTERNET CODE .br
NATIONAL HOLIDAY 17 September

CONTENTS

- Business environment
- Government structure
- Industry
- Infrastructure
- Legal system and contracts
- International trade

Negotiation and Etiquette in Brazil

How to negotiate and do business in **CHINA**

Introduction
China is the most populous country in the world. It is a great agricultural power and very important in manufacturing of consumer goods. China, with its rich natural resources, is an important and growing market. It is one of the first countries that are now an industrial industry already manufacturing. China is the largest of the Latin American countries. Tom Coppen in China are represented in China.



KEY FACTS

POPULATION 1,338m
AREA 9,596,961 sq km
FORM OF GOVERNMENT People's Republic of China
GDP PER CAPITA (PPP) USD 1,200
COUNTRY RISK RATING (Global Risk) (Rating A1-A2-A3-A4-B-C-D)
CURRENCY Yuan renminbi (CNY) = 10 Jiao
OFFICIAL LANGUAGE Chinese
LANGUAGE FOR BUSINESS English
RELIGION The majority is officially atheist, the most common religions are Confucianism, Taoism and Buddhism
CAPITAL Beijing (Br)
MAIN OFFICE Beijing (Br), Tianjin (TJ), Shanghai (Sh), Hong Kong (HK), Guangzhou (GZ), Shenzhen (SZ), Chengde (CD), Kunming (KM), Xi'an (XA), Nanjing (NJ), Harbin (HR), Urumqi (UR), Lhasa (LS), Yincheng (YC), Lanzhou (LZ), Wuhan (WH), Chongqing (CQ), Nanjing (NJ), Hangzhou (HZ), Suzhou (SU), Nanjing (NJ), Hangzhou (HZ), Suzhou (SU), Nanjing (NJ), Hangzhou (HZ), Suzhou (SU)
TELEPHONE CODE 86
INTERNET CODE .cn
NATIONAL HOLIDAY 17 October

CONTENTS

- Business environment
- Government structure
- Industry
- Infrastructure
- Legal system and contracts
- International trade

Negotiation and Etiquette in China

How to negotiate and do business in... **RUSSIA**

Introduction
Russia is the largest country in the world. It is a great agricultural power and very important in manufacturing of consumer goods. Russia, with its rich natural resources, is an important and growing market. It is one of the first countries that are now an industrial industry already manufacturing. Russia is the largest of the Latin American countries. Tom Coppen in Russia are represented in Russia.



KEY FACTS

POPULATION 143.6m
AREA 17,097,000 sq km
FORM OF GOVERNMENT Federal republic (81 Federal administrative districts)
GDP PER CAPITA (PPP) USD 1,200
COUNTRY RISK RATING (Global Risk) (Rating A1-A2-A3-A4-B-C-D)
CURRENCY Russian Ruble (RUB) = 100 Kopecks
OFFICIAL LANGUAGE Russian and other (Tatar, Ukrainian, Armenian, etc.)
LANGUAGE FOR BUSINESS English
RELIGION Russian Orthodox, Protestant, Islamic (20% of the population professes to be of other religions)
CAPITAL Moscow (Br)
MAIN OFFICE Moscow (Br), Novosibirsk (NS), Yekaterinburg (YE), Novosibirsk (NS), Yekaterinburg (YE)
TELEPHONE CODE 7
INTERNET CODE .ru
NATIONAL HOLIDAY 17 October


CONTENTS

- Business environment
- Government structure
- Industry
- Infrastructure
- Legal system and contracts
- International trade

Negotiation and Etiquette in Russia

How to negotiate and do business in **AUSTRALIA**

Introduction
Australia is the sixth largest country in the world. It is a great agricultural power and very important in manufacturing of consumer goods. Australia, with its rich natural resources, is an important and growing market. It is one of the first countries that are now an industrial industry already manufacturing. Australia is the largest of the Latin American countries. Tom Coppen in Australia are represented in Australia.



KEY FACTS

POPULATION 22.6m
AREA 7,688,000 sq km
FORM OF GOVERNMENT Federal republic (6 states, 2 territories and 1 independent territory)
GDP PER CAPITA (PPP) USD 23,349
COUNTRY RISK RATING (Global Risk) (Rating A1-A2-A3-A4-B-C-D)
CURRENCY Australian dollar (AUD) = 100 cents
OFFICIAL LANGUAGE English
LANGUAGE FOR BUSINESS English
RELIGION Protestant (23%), Catholic (23%)
CAPITAL Canberra (Br)
MAIN OFFICE Sydney (NSW), Melbourne (VIC), Brisbane (QLD), Perth (WA), Adelaide (SA), Darwin (NT), Hobart (TAS)
TELEPHONE CODE 61
INTERNET CODE .au
NATIONAL HOLIDAY 26 January

CONTENTS

- Business environment
- Government structure
- Industry
- Infrastructure
- Legal system and contracts
- International trade

Negotiation and Etiquette in Australia

How to negotiate and do business in **GERMANY**

Introduction
Germany is the seventh largest country in the world. It is a great agricultural power and very important in manufacturing of consumer goods. Germany, with its rich natural resources, is an important and growing market. It is one of the first countries that are now an industrial industry already manufacturing. Germany is the largest of the Latin American countries. Tom Coppen in Germany are represented in Germany.



KEY FACTS

POPULATION 82.0m
AREA 357,021 sq km
FORM OF GOVERNMENT Federal republic (16 states or Länder)
GDP PER CAPITA (PPP) USD 37,769
COUNTRY RISK RATING (Global Risk) (Rating A1-A2-A3-A4-B-C-D)
CURRENCY Euro (EUR) = 100 cents
OFFICIAL LANGUAGE German
LANGUAGE FOR BUSINESS English and German
RELIGION Protestant (47%), Catholic (23%)
CAPITAL Berlin (Br)
MAIN OFFICE Frankfurt (H), Munich (M), Cologne (CO), Frankfurt (H), Stuttgart (ST), Düsseldorf (DU), Leipzig (L), Berlin (Br), Hamburg (HA), Cologne (CO), Frankfurt (H), Stuttgart (ST), Düsseldorf (DU), Leipzig (L), Berlin (Br), Hamburg (HA)
TELEPHONE CODE 49
INTERNET CODE .de
NATIONAL HOLIDAY 30 October

CONTENTS

- Business environment
- Government structure
- Industry
- Infrastructure
- Legal system and contracts
- International trade

Negotiation and Etiquette in Germany

How to negotiate and do business in... **JAPAN**

Introduction
Japan is the eighth largest country in the world. It is a great agricultural power and very important in manufacturing of consumer goods. Japan, with its rich natural resources, is an important and growing market. It is one of the first countries that are now an industrial industry already manufacturing. Japan is the largest of the Latin American countries. Tom Coppen in Japan are represented in Japan.



KEY FACTS

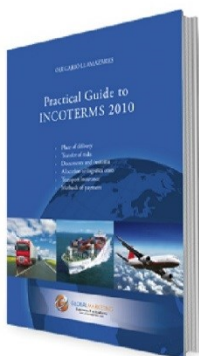
POPULATION 127.8m
AREA 377,837 sq km
FORM OF GOVERNMENT Constitutional monarchy (17 prefectures)
GDP PER CAPITA (PPP) USD 29,488
COUNTRY RISK RATING (Global Risk) (Rating A1-A2-A3-A4-B-C-D)
CURRENCY Yen (JPY) = 100 cents
OFFICIAL LANGUAGE Japanese
LANGUAGE FOR BUSINESS English
RELIGION Shinto and Buddhism (80%), Christianity (2%)
CAPITAL Tokyo (Br)
MAIN OFFICE Tokyo (Br), Osaka (OS), Nagoya (NA), Sapporo (SA), Fukuoka (FU), Sendai (SD), Hiroshima (HI)
TELEPHONE CODE 81
INTERNET CODE .jp
NATIONAL HOLIDAY 23rd October

CONTENTS

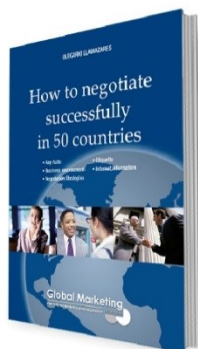
- Business environment
- Government structure
- Industry
- Infrastructure
- Legal system and contracts
- International trade

Negotiation and Etiquette in Japan

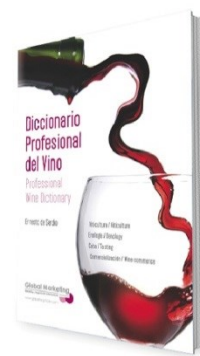
BOOKS & EBOOKS



Practical Guide to Incoterms 2010



How to negotiate in 50 countries



Professional Wine Dictionary

Buy Online
www.globalnegotiator.com
marketing@globalmarketing.es

