



DEZAN SHIRA & ASSOCIATES

Your Partner for Growth in Asia

Know Your Chinese Partners: Case Studies for De-Risking and Managing Your Business

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Today's Speaker



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Your Partner for Growth in Asia



Content

- 1** Background Information of Each Case
- 2** 5 Case Studies
- 3** Summary

Case Scenario

	Any existence in China?	Has this foreign entity ever worked with Chinese partners before?		Any agreement?
➤ Case 1	No	No, this is the first time.		No
➤ Case 2	No	Yes		No
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➤ Case 4	Yes	Yes		Yes
➤ Case 5	No	Yes		No

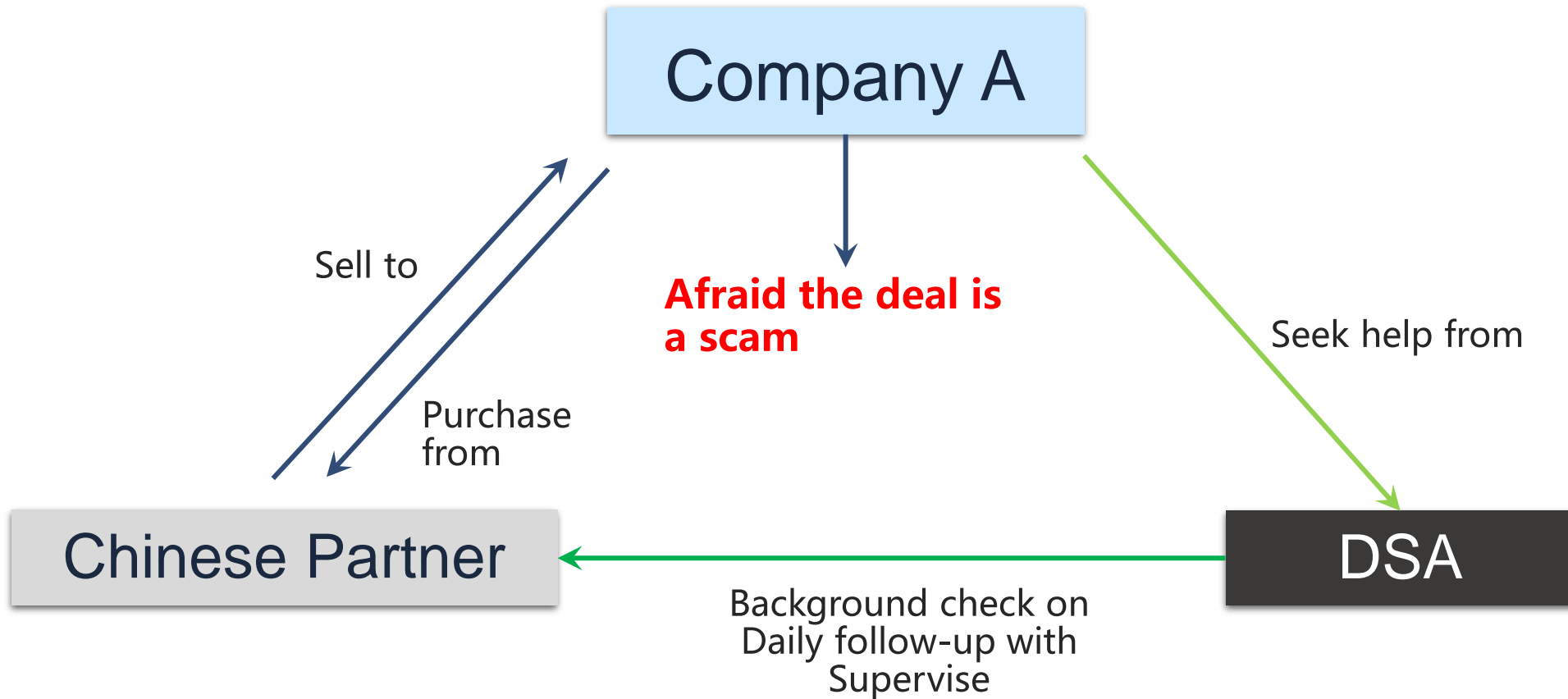
CASE 1

Cautious Beginner



01

Cautious Beginner



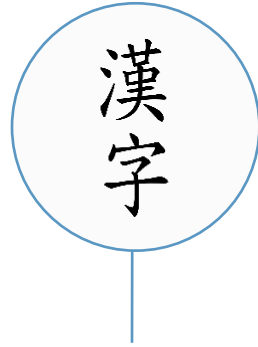
01 Tips

Components of a Company Name in China



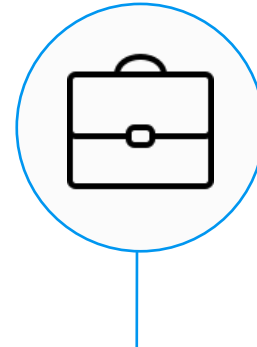
Administrative Region

- Specifically the city's name;
- Can also be after the Business Name



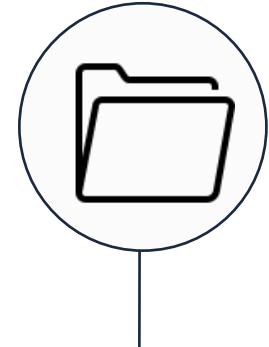
Business Name

- Must use Chinese Character;
- Cannot use phrase or sentence



Industry Description

- Refer to the Industrial Classification for National Economic Activities;
- For example, consulting, trading, technology, etc.



Organization Form

- Co., Ltd or Limited by shares;

01 Tips

Company Search via Public Sources

 For example:

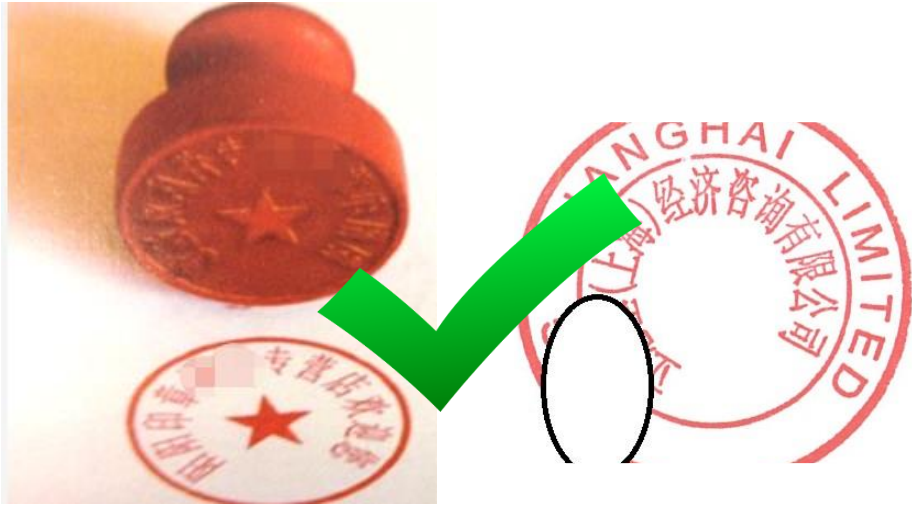
1. Tianyancha 天眼查: www.tianyancha.com
2. Qichacha 企查查: <https://www.qcc.com>
3. Aiqicha 爱企查: aiqicha.baidu.com

工商信息 历史工商信息 > 发生实时通知我 导出数据

法定代表人	 CHRISTOPHER DEV... 任职 1 家企业, 分布如下 广东 (共 1 家) 协力管理咨询 (深圳...)	经营状态	存续	天眼评分	
统一社会信用代码	914403007576409583	成立日期	2004-04-08	工商注册号	440301503340718
营业期限	2004-04-08 至 2024-04-08	注册资本	225万港元	组织机构代码	757640958
企业类型	有限责任公司(台港澳法人独资)	实缴资本	225万港元	核准日期	2021-01-21
参保人数	0	纳税人识别号	914403007576409583	行业	商务服务业
曾用名	-	纳税人资质	-	登记机关	福田局
注册地址	深圳市福田区金田路与福华路交汇处现代商务大厦2503、2504 附近公司				
经营范围	一般经营项目是:从事企业管理咨询、财务咨询、税务咨询,商业策划和经济信息咨询,电子产品信息技术咨询;代理记账、代理报税;物业管理和翻译服务;以承接服务外包方式从事系统应用维护、信息技术支持管理、软件开发、数据处理信息技术和业务流程外包服务;计算机软硬件、软件以及相关辅助设施的销售和上门维护,技术开发、技术转让和技术服务;知识产权代理(专利代理除外)。(以上项目不涉及外商投资准入特别管理措施),许可经营项目是:出版物销售;劳务派遣;人才中介服务,人力资源服务,人才供求信息的收集、整理、储存、发布和咨询服务,人才推荐,人才招聘(包括但不限于开展网络招聘),人力资源开发与管理咨询;人才测评。				

01
Tips

Company Chop/Stamp/Seal



For and on behalf of
SHENZHEN ~~GUOLIN~~ STAMP CO., LTD.
深圳 ~~古林~~ 印章有限公司

.....
Authorized Signature(s)

01 Tips

Cautious Beginner

- Don't cut corners on background check or due diligence if possible on your new Chinese partner, despite the time pressure;
- Better to have someone with professional skills in the Chinese partner's industry to follow up the transaction;
- Better to communicate with the Chinese partner in Chinese.

Case Scenario

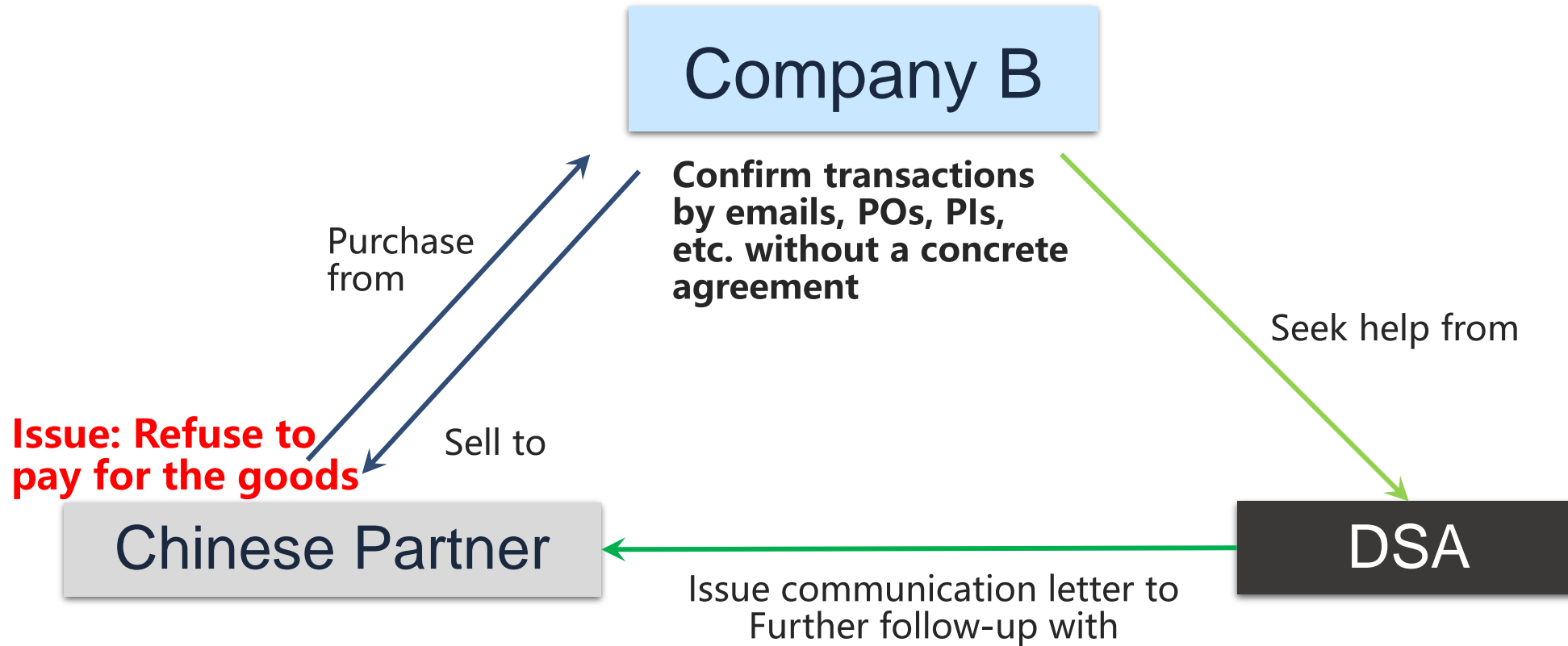
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CASE 2

PO are Not Enough

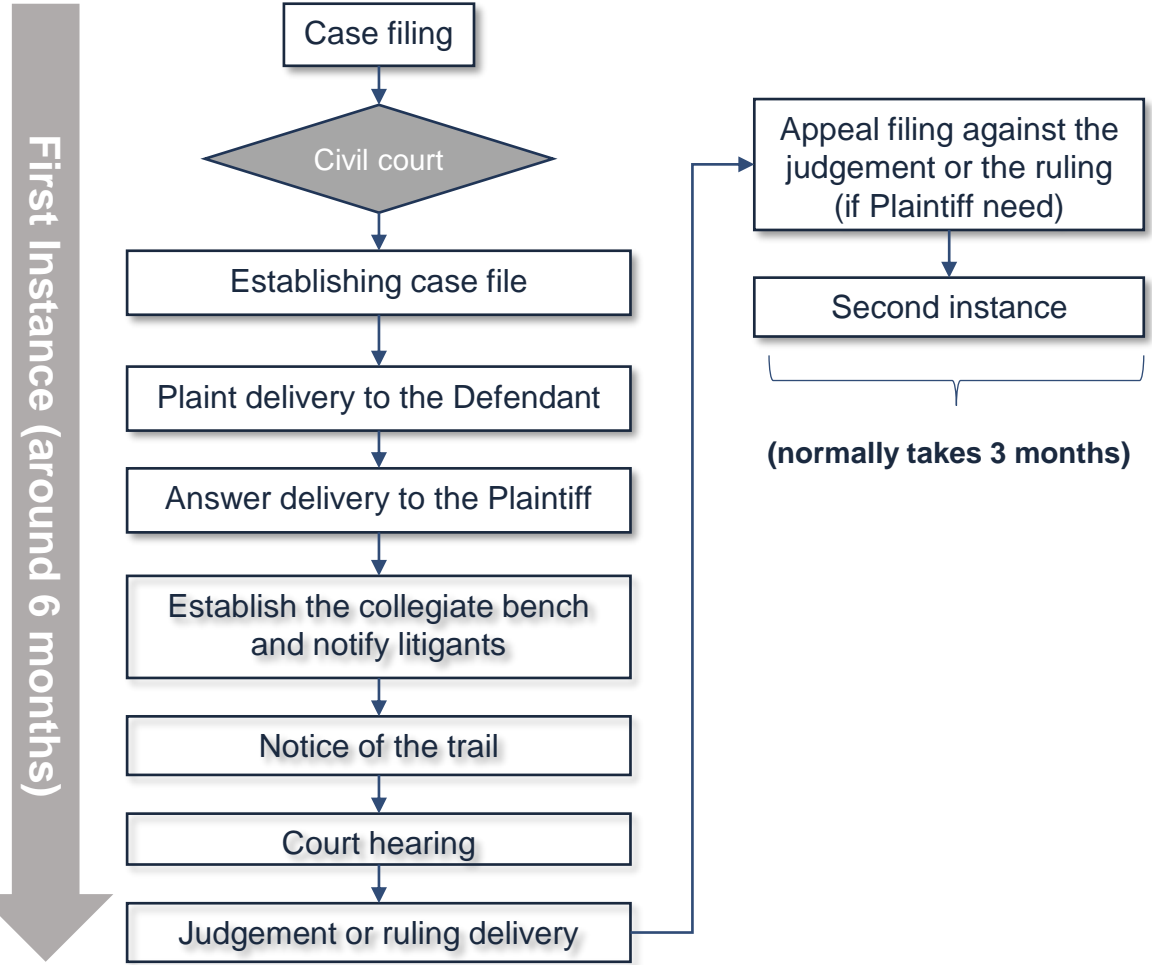


PO are Not Enough

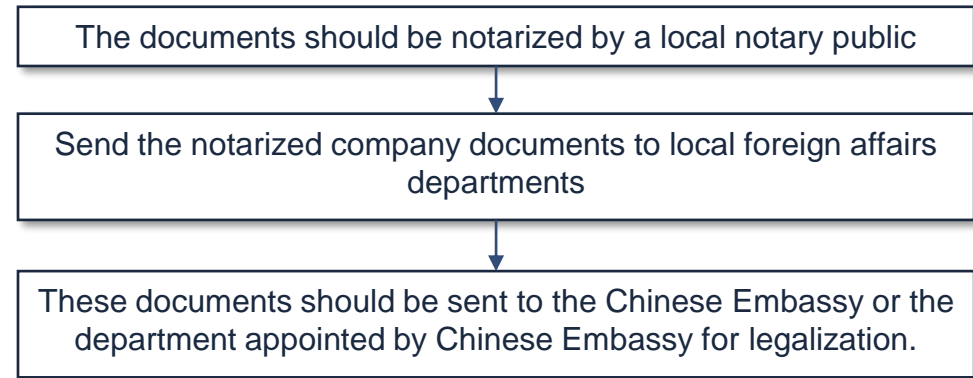


Civil litigation procedures

02 PO are Not Enough



Notarization and Legalization Procedures



***Notes:** These are just the general procedures, specific procedures and name of the authorities could be various from countries to countries. You could always check such procedures from the local Chinese Embassy and Consulate website.

02 Tips

PO are Not Enough

- Don't put too much trust in your Chinese partner;
- Confirm a strategy before negotiating with your Chinese partner, e.g. sending a written letter first before talking with them;
- Take the preparation of communication letter seriously;
- Always important to have a concrete agreement before transaction;
- If there is no concrete agreement, try to collect and keep records of transactions in case you decide to take further legal actions.

Case Scenario

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CASE 3

Review the Agreement Carefully



03

Review the Agreement Carefully

Company C

With an agreement,
but messy drafted

Sell to

Purchase
from

Issue:
Delay delivery;
Short of quantity;
Poor quality;
Refuse to refund

Chinese Partner

Seek help from

DSA

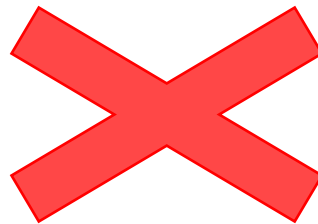
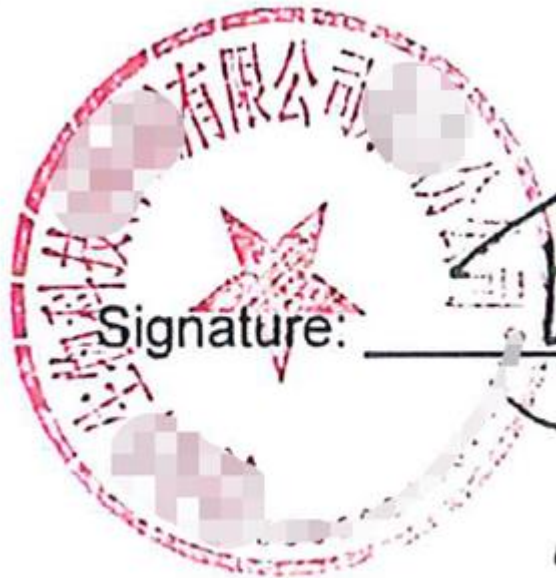
Issue communication letter to
Further follow up with

Review the Agreement Carefully

Reality in Case 3:

乙方（销售方）：[REDACTED] 生物科技（[REDACTED]）有限公司

Party B (Seller): [REDACTED] Bio Technology ([REDACTED]) Co. Ltd.



💡 Best Practice

“Contracting Parties”

The full names of the contracting parties listed at the beginning of the agreement shall be in accordance with the names shown on their company chop.



Review the Agreement Carefully

Reality in Case 3:

- The abovementioned amount of USD 200,600,00 will be paid after the final quality control carried out by an independent third party verified body chosen by the Buyer (such as [redacted] or others) and Local QC people from [redacted] before the shipment in addition with the Invoice and the Packing List. The mentioned USD 70,000,00 -by L/C- will be released by the Bank after the receipt of the Invoice and the Packing List.

75%货款将在装运前由买方选择的独立第三方验证机构(作为 [redacted] 或其他人)或者 [redacted] 的当地QC人员进行最终质量控制后支付, 此外还有发票和装箱单出货前提供。上述25%的信用证将在收到验货报告、发票和装箱单后由银行释放货款。



Best Practice

“Consistent Content”

For a bilingual agreement, the English version should be matched with the Chinese version to avoid misunderstanding.



Review the Agreement Carefully

Case 2 V.S. Case 3

	Company B	Company C
Its attitude	It took it for granted that there is no need to have a concrete agreement as there is trust between them.	It understands the importance of an agreement, but have no idea of how to review the content and main points of the agreement, and just sign without carefully review.
Its transaction basis	Without an agreement	With an agreement, but not prudent enough
Its decision	Give up to sue	File a lawsuit, and is working on the document preparation now

03 Tips

Review the Agreement Carefully

- Do not trust that the “standard” agreement provided by your counter-party could protect your interests;
- Do not rush to accept an agreement without carefully reviewing and revising;
- Only a concrete and good agreement could guarantee your interests, better to ask your legal consultant to review or prepare a proper agreement.

Case Scenario

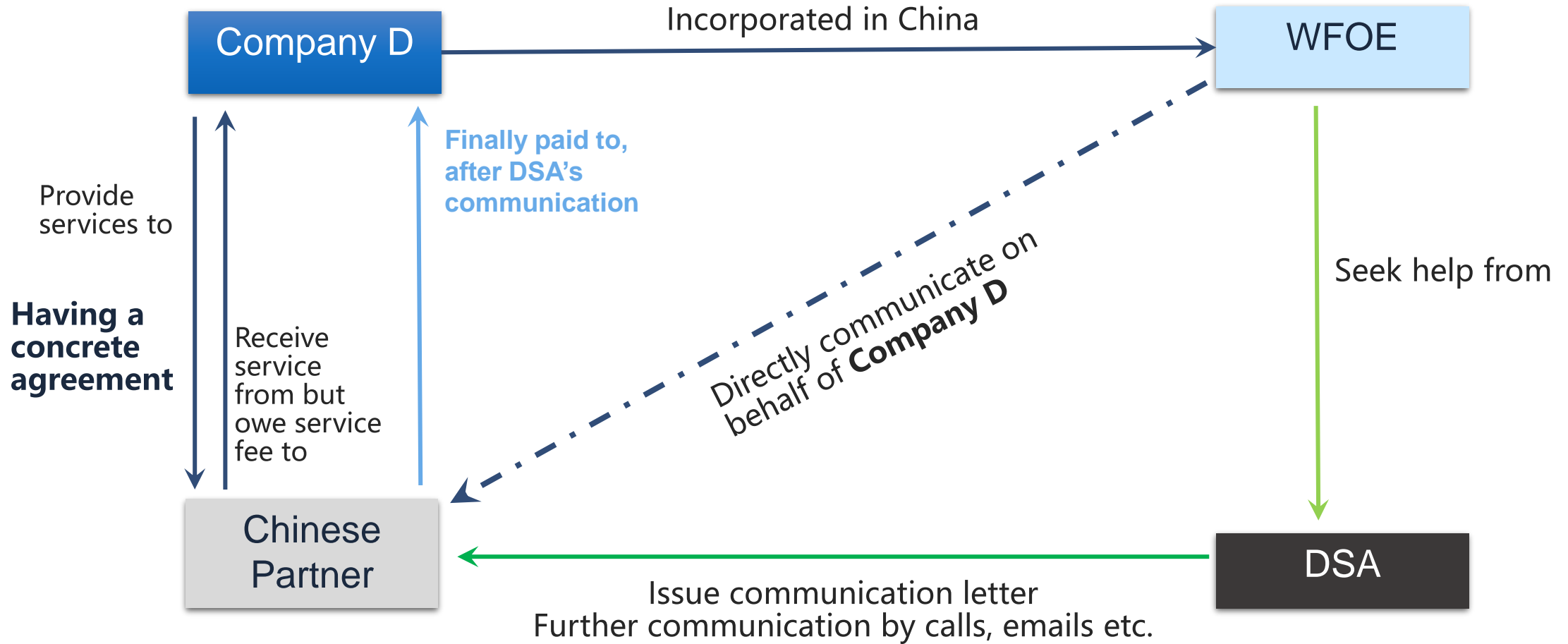
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CASE 4

Prudence leads to a Happy End



Prudence leads to a Happy End

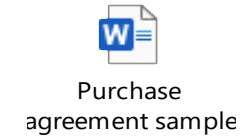


04 Tips

Prudence leads to a Happen End

- Better to have an existence in China if you always need to cooperate with Chinese partners;
- Put everything in writing;
- A good agreement is more binding on both parties and could guarantee your interests.

04 Tips



Commercial terms vs General terms and conditions



Commercial terms

Related to price, goods or services

- ✓ What is the goods (service)?
- ✓ How much and how to pay?
- ✓ How and When to deliver?
- ✓ What's the standards of the goods (service)?
- ✓ How to inspect the goods/evaluate the service?
- ✓ Any warranty?
- ✓ How to install? (if needed)



General terms and conditions

Related to rights and obligations

- ✓ Rights and obligations
- ✓ Liability for breach of contract
- ✓ Damages
- ✓ Termination clauses
- ✓ Confidential clauses
- ✓ Prevail language
- ✓ Application law and dispute solutions

Case Scenario

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CASE 5

Wrong Recipient



Wrong Recipient

Company account



Payer



Personal account



Solution:

- In a negative manner: Wait for the wrong beneficiary bank return the payment;
- In a positive manner: Contact the wrong beneficiary directly.

Relatively easier

Solution:






- Collect bank slips regarding this wrong payment
- Should take a positive manner, e.g. directly contact the wrong beneficiary by communication letters, emails, calls and any possible ways.

More tricky

05 Tips

Wrong Recipient	Precautionary measures	<ul style="list-style-type: none"> • Establish a complete internal payment process policy and system; • Always double check the payment details, e.g. if the payee is the correct recipient this time. • Keep the bank records well, i.e. bank slips.
	Countermeasures	<ul style="list-style-type: none"> • Communicate to the wrong beneficiary by emails, calls etc. • Take legal actions, e.g. sending communication letter, filing a lawsuit.

Summary

	Cause of event	Documents between two parties	Status	Lesson to learn
Case 1	First time to work with Chinese partner, afraid the deal was a scam	No agreement, just a proforma invoice.	Success 	Conduct background check/due diligence
Case 2	Chinese partner refused to pay the goods	No agreement, just a few emails, purchase orders and proforma invoice	Failed 	Establish a concrete agreement
Case 3	Chinese partner refused to refund	An agreement full of mistakes but with some basic information	Ongoing 	Review the agreement prudentially
Case 4	Chinese partner refused to pay the service fee	A concrete agreement	Success 	Establish an existing in China; and a concrete agreement
Case 5	Foreign entities made wrong payments	Only bank slips	Ongoing 	Double check before any payment; establish/improve the internal payment process policy and system

Q & A

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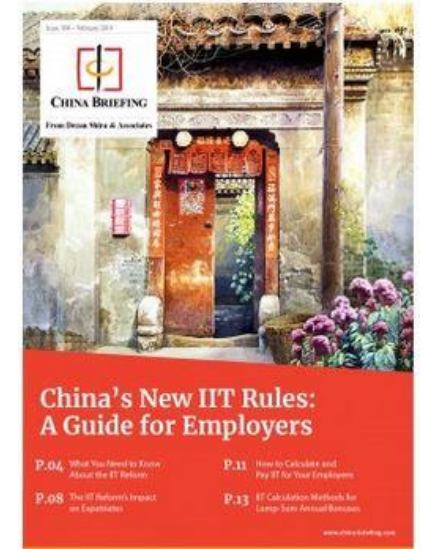
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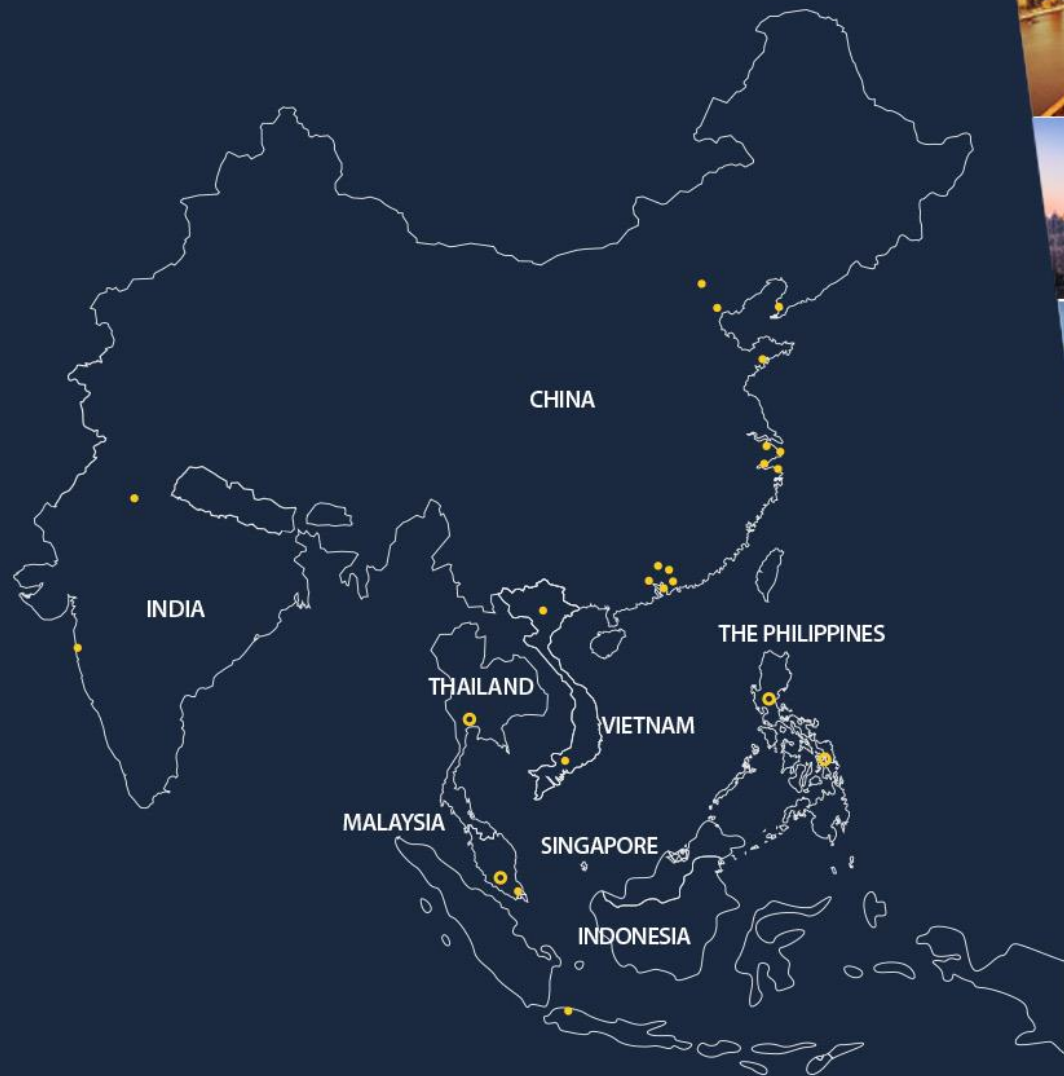
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