

Legislation Applicable to Exports

By Diane Bellavance and Martine Tremblay

Business is thriving and you are ready to export your products worldwide. Here are some points you should consider when negotiating a sale or contract with a potential client.

- Find out whether there are any trade agreements between Canada and your target market. Certain international agreements could also govern the conduct of business in the foreign country to which you are seeking to export your products. You should therefore check the content of these agreements as soon as you begin planning the activities which they govern.
- The conduct of business in the global marketplace often gives rise to misunderstandings resulting from language, morals and customs, as well as from the laws and regulations applicable in the target markets. To avoid these misunderstandings, it is important to have clear, accurate, specific and universal contracts. Expressions used in these contracts

must be carefully defined, because the same word will quite often have different meanings depending on the country in question, and all the parties must have a good understanding of the language in which the contract is drafted.

- In addition, such contracts should specify the choice of law applicable to the contract, namely, the law that will govern the terms and conditions thereof. Once the applicable law has been determined, the contract can be drafted while taking into account the requirements of this applicable law. For example, the legislation of certain countries requires that a contract be in writing, while other countries do not impose this requirement. The rights conferred upon you should be checked in light of the applicable legislation, as should the obligations to which you may mandatorily be subject depending upon the law which has been selected.
- Your contract should also provide for the possibility that a dispute may arise within the scope of your relationship with your potential client. Some

parties prefer to provide for the settlement of such disputes through an international arbitration centre which is specifically named in the contract, while others prefer to resort to the courts. In such a case, you should determine in advance the jurisdiction in which legal proceedings must be instituted (for example, the province of Quebec, the district of Laval). It is important to remember that even if the legislation applicable in Quebec is selected as the law applicable to the contract, the other contracting party may nevertheless have the dispute heard in another jurisdiction or country. The court seized of the matter would then have to interpret the contract pursuant to the laws of Quebec, but you would have to travel, with your lawyer, to the location of the court chosen by the other contracting party.

For more information, please do not hesitate to contact Ms. Diane Bellavance of Lavery, de Billy at (514) 877-2907. We invite you to visit our Web site www.laverydebilly.com.

Diane Bellavance has been a member of the Bar of Québec since 1988 and specializes in Intellectual Property and Entertainment Law



Martine Tremblay has been a member of the Bar of Québec since 1999 and specializes in Business Law

You can contact any of the following members of the Business Law group in relation with this bulletin.

at our Montréal office

Diane Bellavance
Pascale Blanchet
Michel Blouin
Valérie Boucher
Serge Bourque
René Branchaud
Patrick Buchholz
Pierre Caron
André Champagne
Andrea L. Daniels
Pierre Denis
Richard Dolan
Georges Dubé
David Eramian
Réal Favreau
Brian Forget
Marie-Andrée Gravel
Richard Hinse
Martin Joyal
Isabelle Lamarre
André Laurin
Louis A. Leclerc
Alexandra Lee
Larry Markowitz

Jean Martel
Lisa Miller
Charles Nieto
André Paquette
Luc Pariseau
Jacques Paul-Hus
Élise Poisson
Douglas S. Pryde
Johanne L. Rémillard
Ian Rose
Stéphanie Séguin
Michel Servant
Jean-Yves Simard
Yves St-Cyr
Marc Talbot
Vincent Tanguay
Luc Thibaudeau
Vincent Thibeault
Martine Tremblay
Richard Wagner

at our Québec City office

Pierre Beaudoin
Martin Edwards
Jacques R. Gingras
Louis X. Lavoie
Simon Lemay
Marie-Élaine Racine
Jean-Philippe Riverin
Louis Rochette
Jean-Pierre Roy
Kim Thomassin
François Vallières

at our Laval office

Michel M. Dagenais
André B. Gobeille
Luc Villiard

Montréal

Suite 4000
1 Place Ville Marie
Montréal, Québec
H3B 4M4

Telephone:
(514) 871-1522
Fax:
(514) 871-8977

Québec City

Suite 500
925 chemin Saint-Louis
Québec, Québec
G1S 1C1

Telephone:
(418) 688-5000
Fax:
(418) 688-3458

Laval

Suite 500
3080 boul. Le Carrefour
Laval, Québec
H7T 2R5

Telephone:
(450) 978-8100
Fax:
(450) 978-8111

Ottawa

Suite 1810
360 Albert Street
Ottawa, Ontario
K1R 7X7

Telephone:
(613) 594-4936
Fax:
(613) 594-8783

Web Site

www.laverydebilly.com

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