

- Bureaucrats who are tied to the old state-system of jobs (low pay, drab offices, little incentive to work hard or accept responsibility) may resent the wealth of entrepreneurs (foreign or Chinese) and make life difficult for you!

Rule of Law

China's legal foundation and regulatory framework may also make doing business challenging.

- Current laws are sometimes inadequate to deal with new market conditions. It may be unclear who is responsible for making decisions or giving approvals within government. There may be a number of departments with overlapping jurisdiction. Applicable regulations may be in conflict with each other. You will need experienced legal counsel with a presence and experience in China guiding North American enterprises.
- Western concepts of contract law are being introduced into the country through the vast number of business deals with foreign partners. But personal relationships between deal-makers often carry more weight than the details of the written contract. This doesn't mean that you should be content making a deal on a handshake, but it does mean that the personal relationship you build with your Chinese partner will be more important than you're used to in Canada.
- Informal instruments like Letters of Intent or Agreement and Memoranda of Understanding are frequently used to strengthen pre-contractual undertakings. While these instruments lack contractual enforceability, they are seen very clearly as a sign of one's commitment and play a crucial role in relationship building.
- It is not uncommon for Chinese partners to break contractual obligations, nor is it uncommon for them to seek an amendment if the venture's profits exceed or disappoint expectations, or if the Chinese partners' objectives differ fundamentally from those of the Canadian party.
- Enforcement of contracts is weak in China. Western companies who choose to take legal recourse and sue for breach of contract in China may find that the court is a difficult environment and not always friendly. National treatment is still a challenge here though there has been significant progress. Old habits of local protectionism underlie this bias. (Chinese also suffer this "home-field advantage" when they travel to distant provinces or cities within China to sue or try to enforce judicial orders.)
- The Chinese government is working on many fronts to improve the rule of law. A new generation of Chinese jurists is being trained in modern economic law. Many travel overseas to study and work and return to China with a better understanding of Western attitudes to law and enforcement. Newly established arbitration tribunals are available