

Critical Things to Consider When Doing Business in Mexico

The global recession of the late 2000s/early 2010s stung many nations hard, including the United States and the European Union. Mexico, though, positioned itself quite well, from a business standpoint. With a diversifying economy and some key manufacturing advantages over even the U.S. economy that it traditionally leaned on for much of its support, Mexico has become a bona fide emerging economy as a long-term trend.

However, even with the North American Free Trade Agreement, close proximity and familiarity, treating business in Mexico as if they're just a semantics-based extension of U.S.-based business would be quite a mistake.

Legal/Court Differences

Experts familiar with the Mexican business climate and legal system note it works a lot different than the United States. Examples include a lack of consistency between various regional mandates and regulation in the nation, and a lack of necessity for attorneys to have bar membership in many cases, which can and has led to unethical behavior in the profession.

Additionally, don't expect a quick out-of-court settlement to move things along when involved in a court case. NACM sources have estimated that as high as 90% of Mexican cases end up going to trial, which means time and cost.

Documentation, Documentation, Documentation

One way to help lessen the likelihood of ending up in a lengthy Mexican court battle is to not play fast-and-loose with any Mexico-based business transaction. Proper documentation is absolutely critical to avoiding the aforementioned judicial bottleneck. In essence, it helps ensure there are as few reds flags as possible.

And, because of the importance of documentation in U.S.-Mexican trade credit deals, it is advisable to have local consultants, notaries and attorneys involved in the process that are beholden to (paid by) your company. When dealing in Mexico, having someone familiar with processes working almost as an advisor can pay dividends in the form of significant risk aversion.

Mexican Judgments Not Necessarily Accepted in the U.S.

It is typical for a U.S. Bankruptcy Court judge to affirm plans previously accepted by their Mexican judicial counterparts, even when U.S.-based creditors take a bit of a hit. It is seen as a show of respect and good for the business climate. However, while formerly rare, it appears this is moving increasingly farther away from being a guarantee.

A 2012 case out of Texas showed the dangers of making such an assumption. A Chapter 15 (the cross-border provision allowing U.S. courts to recognize or ignore foreign insolvency proceedings that include domestic trade creditors) case out of the U.S. Bankruptcy Court in Dallas saw Judge Harlin Hale deny enforcement of a restructuring plan from the Mexican-based company Vitro SAB, a glassmaker. In the Vitro case, its reorganization plan was approved in a Leon (Mexico) court and included waivers of guarantee claims of U.S.-based bondholders while Mexican creditors received 40 cents on the dollar and the debtor retained company control. Hale believed the judge's decision "manifestly contrived" U.S. bankruptcy policy and the interests of American bondholders and trade creditors.

Crime

The drug war between gangs in Mexico has more than taken its toll on the nation, even as it emerges as a financial player. While NACM and others advocate making in-person visits to clients, especially early in a business relationship, it's important to note that robberies, murders and ransom kidnapping of American businessmen and tourists has not been the rarest of occurrences there.

As such, when traveling to Mexico on business, ensure the details of the travel are thought out well in advance. It also doesn't hurt to have things set up with a trusted local to guide you through the process, including picking you up at the airport. There are countries in the world where business and credit professionals can just wing it a bit, so to speak. Mexico is simply not one of those places, even though it does contain some very nice and safe areas. In short, being well prepared in advance of travel to Mexico may well keep a credit professional out of trouble.