

PRACTICAL ADVICE IN MATTERS OF DISTRIBUTION AND SETTING-UP

- Become familiar with the distribution methods and channels which are applicable to your products: for instance direct sales to retailers, direct sales to consumers via subsidiaries or the use of independent agents.

- Your commercial success depends greatly on the efforts expended by your American commercial partners. The margin rates which are offered to you often correspond to just compensation for these efforts.

- If you wish to protect your trademark and your commercial reputation, think about granting exclusive rights, but limit this exclusivity by client category or by territory.

- Keep in mind that the American consumer's attitude is not homogenous when choosing your sales territories. American clientele is rather volatile, and the rate of return of purchased products can be high.

- Be aware of the trend towards litigation in the general business world in the United States, as well as of the legal context, which differs from the European one. Do not hesitate to consult experts, as American people commonly do. In certain areas, such as wines and liquors, the laws can be extremely complex. There are federal regulations, as well as regulations which vary from State to State.

- Keep in mind that sales representation agreements must be in writing in the State of New York. Such writings can be in the form of a letter or of a detailed contract. The issues of the mechanism of dispute resolutions as well as of their agreed-on location can be important for reasons of costs and strategy.

- Use domestic law rather than the law of your country of origin. In the case of a network of commercial agents operating in several States, it is appropriate for the same contract to govern all of the agents and that such agreement be governed by the laws of one State, preferably a state in which the case law and the regulations are well developed (such as New York or California).

- It is recommended to at least translate into English the conditions of sale of the foreign vendor. An American subsidiary should be covered by a number of contractual documents governed exclusively by either Federal or State law.

- Be cautious as to payment terms. Take the initiative and offer terms and conditions which are satisfactory to you to your American prospective partners; do not engage in contractual or administrative issues or proceedings without the previous consultation of an attorney.

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