



## But My Chinese Business Partner and I Have Done Business on a Handshake for Years. Wouldn't It Be a Terrible Insult for Me to Insist on a Long and Expensive Contract at This Point? How Can I Insist on a Contract Now and Not Lose Face or Cause My Partner in China to Lose Face and Not Damage This Important Relationship?

By David L. Woronov

I will begin with my usual interface with clients on a related point. I will ask them whether they are currently getting along well with their business partner(s). If they say yes, then I will usually smile and nod and tell them that this makes for a perfect time to negotiate a written contract—it is never good to try to work out a contract with someone when you are not getting along with them and when there is an absence of mutual respect and trust!

A fundamental aspect to all contracts is mutuality. A proper and balanced contract is meant to reflect the nature of the deal and to protect both parties and therefore, in a larger sense, the entire relationship. If your concern is not to upset the other party, then you may want to emphasize that this contract would **protect the other party**, in the event that something might ever happen to you, or if your business might ever be sold or be turned over to a child or another, less familiar successor. In that case, the dealings between your two companies really do need to be “memorialized” so that nothing should interrupt those harmonious dealings (for whatever period of time you both may agree upon). In this instance, in theory you are elevating your business partner to a higher status than your own child or successor and are putting them on the same level as your business, which is meant to survive you and essentially to be immortal, and you can and probably should even stress this, as it is a position of great honor and trust. Their humility in denying or refusing that honor, although appreciated, ultimately would be very disappointing to you. Don't they deem your relationship to have a similar place of honor? Shouldn't that be memorialized, to be carried on without possibility of corruption, distortion or manipulation by any outside influences?

The bottom line is that you should not put your Chinese counterpart on the defensive. Instead, you should suggest that you should prepare and then both execute a proper and clear contract as a testimony to and protection of your long-lasting and hard-built relationship. May nobody, including your own successors or even your own children, ever dishonor, modify or otherwise interfere with it, and thus it must be put into a written form to reflect and memorialize what has already been built.



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