

International Debt Collection Handbook

Sixteenth Edition

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Introduction

Welcome

We're extremely proud to present you with the 16th edition of the International Debt Collection Handbook. This edition includes three new countries: Bosnia and Herzegovina, North Macedonia, and Serbia.

Since its launch in 2008, the International Debt Collection Handbook has quickly established itself as a critical support tool for collection decisions in foreign countries. International debt collections and country-specific legal systems create challenges that affect every business. The International Debt Collection Handbook is an invaluable and reliable tool that helps decision-makers all over the world select the right approaches to debt collections. It outlines the diversity and complexity of debt collection approaches for each country included in the handbook, often with an immense amount of details. The International Debt Collection Handbook draws from the expertise of Atradius Collections' local offices and explains the different stages of amicable settlements, regulations, legal proceedings, and insolvency procedures in each country.

No business is immune to the risks associated with international trade or poor payment behaviour. Maintaining and protecting your cash flow are absolutely crucial. Having knowledge of amicable collections and the country-specific legal phases surrounding collections is vital for survival in a global economy. By relying on our local expertise as detailed in the International Debt Collection Handbook, you can ensure that you are following a professional and successful approach.

I'm sure that you will find the International Debt Collection Handbook a highly useful, in-depth resource for all your business decisions relating to debt collections.

And if you need help with international debt collections, we are there.

Kind regards,



Rudi De Greve
Global Operations Officer, Atradius Collections

About Atradius Collections

Atradius was originally founded as NCM in the Netherlands in 1925 and was created with the goal of improving trade for companies in the Netherlands. In Germany, Atradius' roots stemmed from Gerling Credit, which was established in 1954 and operated solely out of Germany until 1962, when it opened its first international office in Switzerland. In Spain, Crédito y Caución was founded in 1929 and focused on growing steadily to become the dominant credit insurance and surety company on the Iberian Peninsula.

The heritage, knowledge, and exemplary service standards of these three companies are now combined within the Atradius Group, creating as part of its activities Atradius Collections - a global leader in business-to-business (B2B) debt collections.

With such a pedigree and global reach, we're equipped to not only leverage successful debt collections on behalf of our clients, but also set out to maintain high standards in the market. We've become a key player in the B2B collection market.

As a result of being a separate division within the Atradius Group, we hold a strong position, sharing history, knowledge, and reputation, which help ensure that we deliver when it comes to collecting outstanding debts, managing clients' accounts receivable, or guiding them along the route to growth. We provide leading B2B collection services, plus a range of solutions that cover receivables management's needs. Our integrated worldwide network and operations are unique in the market. Our online collection management system allows our clients to place and manage debt cases 24 hours a day, 365 days a year.

With a presence in 40+ countries and an extensive network worldwide, we serve over 16,000 businesses and collect more than EUR 350 million per year. As part of the Atradius Group, we look back on over 90 years of global credit management industry experience, positioning our business as a leading international trade invoice collection company.

China

Industries



Chemicals



Construction materials



Consumer durables



Electronics



Food



Machines



Minerals



Textiles



Transport

Chance of collecting

up to 50% ✓

1. Amicable collections



1.1. General information

China has had a rich history of debt collections. The practice was prohibited by the Chinese government in the late 19th century and is still restricted by law today. Therefore, the debt collection industry is still officially restricted, but there are companies that provide debt collection services through specialised legal firms that are authorised to collect Chinese debts. China has shown more interest in outsourcing their outstanding receivables to debt collection agencies and law offices.

We collaborate with local law firms to provide amicable and legal collection services in China. Our team has experienced collectors with a legal background, which is essential for collecting debts in China.

1.2. Local agents

We have local offices in Shanghai and Guangzhou - two major cities in China, covering our collection services across the whole nation.

1.3. Interest

From a cultural point of view, Chinese debtors aren't used to paying late payment interest charges. So during the first steps of negotiation, we usually don't claim this part. When a case enters into litigation or arbitration, we charge interest calculated from the loan prime rate set by the People's Bank of China, plus 30% to 50% (the Reply from the Supreme People's Court on the Calculation Standard of Late Payment Penalties).

1.4. Debt collection costs

From the point of view of Chinese law, we have the right to charge the costs arising from the collections of debts, but Chinese debtors won't expect to pay them if the debts are paid in the negotiation phase.

1.5. Prescription

The general limitation of action regarding applications to a people's court for protection for civil rights is three years, unless otherwise stipulated (the General Principles of the Civil Law of the People's Republic of China (PRC), Article 135).

The limitation of action is one year for cases concerning the sales of substandard goods without proper notice of the effect.

For disputes arising from contracts for international sales of goods or technology imports or export contracts, the time limit for bringing a suit or applying for arbitration is four years, calculated from the date on which the party knows or ought to know the infringement of its rights.

The limitation period for claims against carriers with regard to carriage of goods by sea is one year, starting from the day on which the goods were delivered or should have been delivered by the carriers.

The limitation period for claims against carriage by rail is 180 days.

There is no such stipulation regarding outstanding invoices.

Any of the following circumstances will have the effect of interruption to statutes of limitations.

- A party directly serves a document of claim on the opposite party, and the opposite party affixes their signature or seal to the document. Or it may be otherwise proved that the document reached the opposite party, who failed to affix their signature or seal to the document
- A party makes a claim by correspondence or data message, and the letter or data message reached or should have reached the opposite party
- A party, which is also a financial institution, deducts and collects the owed principal and interest from the accounts of the opposite party
- The whereabouts of a party is unknown, and the opposite party publishes an announcement of claim through a national medium or an influential local medium near the last known location of the party whose whereabouts is unknown

These are only a few of the situations that may interrupt a limitation period, and there are many other stipulations that have the same effect detailed in the Provisions of the Supreme People's Court on Several Issues Concerning the Application of Statutes of Limitations during Trials of Civil Cases, which came into force as of 1 September 2008.

1.6. Payment methods

The most common Payment methods are bank transfers and bank acceptance drafts for local businesses. The drafts normally have future honour dates and bank acceptance stamps on them.

1.7. Types of companies

Limited liability company

- The company has liability for its debts with all its property
- The amount of capital contributions subscribed for by all its shareholders is in compliance with the company's by-laws

Joint-stock limited company

- The company has liability for its debts with all its property
- The shareholders are responsible for the company to the extent of the shares they've subscribed for
- The company can be established by floatation on a stock exchange

1.8. Sources of information

In China, there are public local credit information platforms as well as credit information companies. However, financial data are restricted except for public listed companies. Other information includes the contact details of debtors' shareholders or legal representatives, debtors' bank accounts, records of litigation and the like.

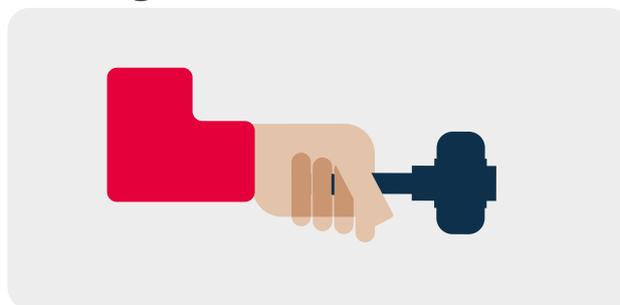
2. Retention of title

Under the Contract Law of the PRC, a seller retains the ownership of their goods before the buyer has paid in full only when both parties have agreed to this in the contracts. If there is no such stipulation, the ownership of the goods transfers to the buyer upon delivery.

The Contract Law of the PRC:

- Article 133. The ownership of a targeted matter is transferred upon the delivery of the targeted matter, unless the law allows otherwise or the parties stipulate otherwise
- Article 134. The parties may stipulate in a purchase and sales contract that the seller retains the ownership of the targeted matter if the buyer fails to pay the price or fulfil other obligations

3. Legal collections



3.1. General information

In China, the law regulates the relationships between people or companies. There is no need to give a warning prior to filing a lawsuit. When a case is sent to court, there may be a pre-court procedure, which can be skipped before the normal proceedings start.

3.2. Legal systems

In China, courts are divided into the Supreme People's Court, high people's courts, intermediate people's courts, and primary people's courts. Generally, the primary people's courts have jurisdiction as courts of first instance for civil cases. The intermediate people's courts have jurisdiction as courts of first instance for civil cases that have a major impact on the areas under their jurisdiction. The high people's courts have jurisdiction as courts of first instance for civil cases that have a major impact on the areas under their jurisdiction. The Supreme People's Court has the right to give interpretations of questions concerning specific application of laws and decrees in judicial proceedings.

Supreme People's Court

- The highest independent court
- Final judicial judgments

High people's courts

- Of provinces
- Of autonomous regions
- Of municipalities directly under the central government
- Supervised and guided by the Supreme People's Court

Intermediate people's courts

- Established in the prefectures of a province or an autonomous region
- Established in municipalities directly under the central government
- Of autonomous prefectures
- Of municipalities directly under the jurisdiction of a province or an autonomous region
- Supervised and guided by high people's courts

Primary people's courts

- County people's courts and municipal people's courts
- People's courts of autonomous counties
- People's courts of municipal districts
- Supervised and guided by intermediate people's courts

3.3. Required documents

The following conditions must be fulfilled when a lawsuit is filed.

- The plaintiff must be a citizen, a legal person, or any organisation that has a direct interest in the case
- There must be a definite defendant
- There must be a specific claim or claims, facts, and cause for the suit
- The names, genders, ages, ethnic status, occupations, work units, and home addresses of the parties must be provided. If the parties are legal persons or any other organisations, their names, addresses, and the names and posts of the legal representatives or principals must be provided
- The evidence and its sources, as well as the names and home addresses of the witnesses, must be provided
- The original documents will be provided and checked during the trial

When a lawsuit is filed, copies of the statements as well as other evidence will be provided depending on the number of defendants in court.

3.4. Legal dunning procedures

When a creditor requests payment of a debt or recovery of negotiable instalments from a debtor, they may, if the following requirements are met, apply to a primary people's court that has jurisdiction over orders for payment.

- No other debt disputes exist between the creditor and debtor
- An order for payment can be served on the debtor

China is the most credit-averse country with fewer than 40% of business-to-business transactions made on credit.

The debtor will, within 15 days after their receipt of the order for payment, clear their debt or submit to the people's court their dissent in writing. If the debtor has neither dissented from nor complied with the order for payment within 15 days, the creditor may apply to the people's court for execution. The order for payment is effective only when the debtor has failed to submit their dissent in writing within 15 days. Once such dissent is submitted, the order for payment will be terminated and the creditor will need to take further legal action.

3.5. Lawsuits

Lawsuits can only be filed by creditors.

Generally, a civil lawsuit brought against a citizen will be under the jurisdiction of the people's court in the area where the defendant lives. If the place of the defendant's address is different from that of the defendant's usual residence, the lawsuit will be under the jurisdiction of the people's court in the area of the defendant's habitual residence (one year).

A civil lawsuit brought against a legal person or any organisation will be under the jurisdiction of the people's court in the area where the defendant has their domicile or is subject to the contract stipulations.

A lawsuit brought in a contract dispute will be under the jurisdiction of the people's court in the area where the defendant has their domicile, or where the contract is executed.

Not all stipulations about jurisdiction are listed (see the Civil Procedure Law of the PRC).

3.6. Appeals

If a party disagrees with a judgment issued by a local people's court of first instance, the party has the right to lodge an appeal with an immediate superior people's court within 15 days from the date when the written judgment was issued.

When lodging an appeal, a petition for the purpose will be submitted. The content of the appeal petition will include the names of the parties, the names of the legal persons and their legal representatives or the names of other organisations and their principals, the name of the people's court where the case was originally tried, the file number of the case, the cause of action, the claims of the appeal, and the reasons.

3.7. Expected time frame

When a case is tried according to a summary procedure (one judge), the people's court will conclude the trial within three months from the date it's entered on its trial docket.

When a case is handled according to an ordinary procedure (three judges), the people's court will conclude the case within six months from the date it's accepted.

When an extension to a period is necessary under special circumstances, a six-month extension may be allowed, subject to the approval of the president of the court.

Further extensions, if needed, will be reported to a people's court at a higher level for approval.

A case on appeal will be concluded within three months after being docketed by the people's court.

However, the period for the people's court to try a foreign-related civil case won't be limited by the above-mentioned provisions.

3.8. Costs and interest in the legal phase

The costs and interest in the legal phase can be claimed with the loan prime rate set by the People's Bank of China, plus 30% to 50% (the Reply from the Supreme People's Court on the Calculation Standard of Late Payment Penalties).

4. Enforcement

4.1. Enforcement in debt

The concerned parties must comply with legally effective judgments or written orders in civil cases. If a party refuses to do so, the other party may apply to the people's court for execution, or the judge may refer the matter to an execution officer for enforcement.

All the fees arising from the enforcement will be paid by the debtor, and the applicant doesn't have to pay such fees.

4.2. Enforcement in movable property and immovable property

If the debtor subjected to execution fails to fulfil the obligations according to the execution notice and the obligations specified in the legal documents, the people's court will be empowered to make enquiries to the banks, credit co-operatives, or other units that deal with saving to the accounts of the debtor, and will be empowered to freeze or transfer deposits.

If the debtor subjected to execution fails to fulfil the obligations specified in the legal documents, the people's court will be empowered to seal, freeze, sell by public auction, or sell off part of the property of the debtor for the fulfilment of their obligations.

4.3. Expected time frame

The time frame for enforcement is usually less than six months, but it can be extended when necessary after being approved by the president of the court.

5. Insolvency proceedings



5.1. General information

With the start of preliminary proceedings, all individual enforcement is suspended. Only when the insolvency proceedings aren't started, will individual enforcement be continued.

The purpose of insolvency proceedings is to pay out all the creditors by liquidating the assets of the debtor company.

5.2. Proceedings

When the debtor is unable to pay off the debts due, their creditors may file an application for reorganisation or liquidation by bankruptcy to the people's court.

The people's court will designate an administrator when ruling on accepting the application for bankruptcy. The people's court will inform the creditors who have definite addresses about the ruling within 25 days after making the ruling whether it accepts the application for bankruptcy and makes a public announcement.

After the people's court accepts the bankruptcy application, the debtor can't pay off the debts to specific creditors. The civil litigation or arbitration concerning the debtor that has started but hasn't ended yet will be suspended after the people's court accepts the application for bankruptcy, and the litigation or arbitration will proceed after the administrator takes over the debtor's property. Civil litigation concerning the debtor after the people's court accepts the application for bankruptcy may only be filed with the people's court that has accepted the application for bankruptcy.

5.3. Expected time frame and outcome

The people's court will confirm the time limit for the creditors to declare credits after accepting the application. The time limit for declaring credits won't be fewer than 30

days or exceed three months since the date of the public announcement of the application for bankruptcy by the people's court.

The debtor or administrator will, within six months since the date of the ruling by the people's court on the reorganisation of the debtor, submit a draft of the reorganisation plan to the people's court and creditors' meetings simultaneously. At the request of the debtor or administrator with justified reasons upon the expiration of the term above, the people's court may rule on an extension to such a term for another three months.

The whole duration of insolvency proceedings usually takes between two and four years, but it could be more.

5.4. Limited companies

The administrator will, within 10 days since the conclusion of the bankruptcy proceedings, handle the procedure for the revocation of the registration of the bankrupt person at the registration authority by giving the ruling of the people's court on the conclusion of the bankruptcy proceedings.

The directors, supervisors, or officers of the bankrupt company that have neglected their duties of loyalty and due diligence and contributed to the bankruptcy of the company will bear relevant civil liability. The persons involved in the mentioned circumstances won't act as directors, supervisors, or officers at any company within three years since the date of the conclusion of the bankruptcy proceedings.

5.5. Unlimited companies

Unlimited companies can't declare insolvency. They should bear the debts until they're paid off or cancelled by the creditors.

5.6. Rescission

When the debtor and creditors have objections against the credits contained in the credit form, lawsuits may be instituted in the people's court that has accepted the application for bankruptcy.

The salaries, medical and disability allowances, pension expenses due to the employees by the debtor, basic pension insurance, basic medical insurance expenses owed to the individual accounts of the employees, and compensation that will be paid to the employees as prescribed by administrative law and regulations aren't required to be declared. These will be listed and posted to the public by the administrator after investigation. In case of objections to the records on the list, the employees may require that

the administrator make corrections. If the administrator has made no corrections, the employees may file lawsuits in the people's court.

6. Arbitration and mediation

Contracts relating to foreign investments in China usually stipulate that any disputes arising between the parties should be settled by amicable negotiation, followed by arbitration in case of failure of agreement. Resolutions to disputes by arbitration are also recognised in foreign-related laws in China. Foreign-related arbitration in China is now mainly administered by the China International Economic and Trade Arbitration Commission (CIETAC).

According to the Arbitration Law of China, an arbitration agreement (which is usually set out as one of the clauses in the contracts) must be in writing and contain the following particulars.

- An indication of intention to apply for arbitration
- The arbitration matter
- The selected arbitration commission

Mediation isn't usually used to resolve disputes in China.

Case study

HP Inc.

At a glance

HP Inc. creates technology that makes life better for everyone, everywhere.

- **Industry:** Information technology and services
- **Market:** Global
- **Challenge:** Recovering invoices from difficult, resource-intensive cases
- **Solution:** Amicable collections
- **Result:** HP Inc.'s number of recovered invoices increased significantly. The collected amount was maximised while their collections workload was minimised. HP Inc. has been in partnership with Atradius Collections for over 10 years

Debt collections approach

Collecting unpaid invoices from commercial customers took an unwanted toll on HP Inc.'s resources. The customers remained unresponsive and the recovery rate was disappointing.

That's when HP Inc. decided to use our debt collections service.

Amicable collections to recover ageing and difficult cases

"Atradius Collections has both the global and local know-how," says Alex Gasca, Global Default and Recovery Manager of HP Inc. "There were lots of cases and the success rate of Atradius Collections was very high. For some cases, we were simply unable to collect the debts. But right away, Atradius Collections achieved impressive results."

HP Inc.'s accounts receivable then became more efficient. It set up a monthly challenge where we discussed its most difficult collections cases and took over from there. Because of this close cooperation, we've gained deep-seated knowledge of HP Inc. and that makes for favourable outcomes.

"Atradius Collections continues to get results – even with the toughest cases," says Gasca.

Tailored processes to increase recoveries with minimal internal efforts

These days HP Inc. has shifted focus to the most time- and effort-consuming debt cases. It has developed a hybrid approach that includes us as part of its internal strategy.

"From the point we hand over cases to Atradius Collections, the work and man-hours put into them drop to close to zero. Because Atradius Collections follows up for us – from providing incentive payment plans to handling the situation. We get to keep internal efforts to a minimum while also getting recoveries," says Gasca.

Result

"Atradius Collections gives us peace of mind," says Gasca. "It also gives our senior executives comfort that we are not just writing off. We are now moving cases to someone who can help with recovery."

Looking back at the long-lasting partnership, Gasca says, "We are pleased that from the outset, Atradius Collections has been open, transparent, and constructive – even at a personal level. I believe that the relationship we have is truly excellent and HP Inc. is very happy with it."

And the key to this fruitful collaboration? "We share the same mission: making HP Inc. more profitable," says Gasca. "Collecting debts – the big challenge – has worked out very well, from the earliest cases to today's. I'm really impressed with Atradius Collections. Yes, I am."

If you need to recover commercial debts worldwide like HP Inc., please contact our office closest to you. Our local offices' contact details are at the end of this handbook. We will follow up with the most suitable solutions to collect your debts.

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Through a presence in 40+ countries, we provide commercial debt collection services in 96% of the countries across the world. Our wide breadth of services, ranging from accounts receivable outsourcing to third-party collections, helps companies around the globe recover unpaid invoices. Atradius Collections forms part of Grupo Catalana Occidente, one of the leading credit insurance companies in Spain and worldwide.

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