

Doing Business in the United Kingdom and Finland

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Fredrikson
& BYRON, P.A.

Legal Aspects of Doing Business in Finland

Finland



Fredrikson & Byron, P.A.

- International law firm
 - Over 330 lawyers
 - Offices in Minneapolis, St. Paul, Mankato, Des Moines, Bismarck, Fargo, Shanghai and Saltillo/Monterrey
 - Experience in assisting clients with foreign entity structuring, international tax, cross border M&A, negotiating and drafting commercial contracts (i.e., product purchase and sales, supply, licensing, consulting, sales representative, distributor and labor agreements)
 - Strong relationships with correspondent law firms and notaries throughout the world

Topics Covered

- Background and Trade Data
- Legal System
- Trade Agreements
- Forms of Doing Business
- Taxes

Finland Background and Trade Data

- Population roughly equal to that of Minnesota (5.5 million vs 5.6 million)
- Finland is Minnesota's 50th largest trading partner, so there is room to grow!
- Minnesota has among highest number of Finnish immigrant descendants
- Member of European Union since 1995
- EU makes up more than 60% of Finland's trade, with the U.S. being its third largest trading partner

Finland Background and Trade Data

- 2020 top Finnish Imports were machinery, nuclear reactors, boilers, mineral fuels, oil, electrical/electronic equipment, vehicles, commodities, plastics and pharma products
- 2020 top Finnish exports were transportation, electronics, forestry, machinery and chemicals
- 2020 GDP \$271 Billion

Finland Background and Trade Data

- 2020 U.S. goods exports to Finland were \$1.6 Billion, with service exports being about \$1.5 Billion
- Ranked among top countries in world on ease of doing business and transparency
- Ranked Number 1 in the world for quality of life by CEOWORLD Magazine based on 10 factors: affordability, economic stability, family-friendly, a good job market, income equality, political neutrality & stability, safety, cultural influence, well-developed public education system and well-developed public health system

Legal System

- Finland has a parliamentary system, with the main source of the law being the constitution of March 2000. The legal system is based on a civil law system that is based upon Swedish law
- Finland follows European Union (EU) internal market practices, which define Finland's trade relations both inside the EU and with non-EU countries. European Community law is directly applicable and takes precedence over national legislation
- Recognize rights of parties to freely contract
- Finnish laws are available in English -
<https://www.finlex.fi/en/laki/kaannokset/1988/en19880389>

Legal System

Importing into Finland

- Importing into Finland is subject not only to Finnish but also EU legislation. The EU's Union Customs Code (Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code) aims to complete the shift by Customs to a paperless and fully electronic and interoperable environment.
- Certain items such as alcoholic beverages, foodstuffs, pharmaceuticals, firearms and other articles that could pose a potential threat to health, welfare, or spread animal and plant diseases are subject to restrictions. These import/export items need to meet special requirements and certifications set by the EU or Finnish standards. Refer to the Tarif Intégré de la Communauté (TARIC) database to determine if a license is required for a product.

Legal System

Importing into Finland

- It is the responsibility of the importer or the authorized agent to declare imported goods to Finnish Customs. This can be done through the Single Administrative Document (SAD). The SAD form is an import declaration form for all EU Member States.
- The following documents should be presented for imports into Finland:
 - A customs declaration form endorsed by the National Board of Customs in Finland
 - A valuation declaration for imports exceeding the value of EUR 5,045.64 (\$5752.03 in 2019)
 - A copy of the commercial invoice

Trade Agreements

- European Union
- World Trade Organization (WTO)
- EU has concluded trade agreements with approximately 70 non-EU countries. These agreements facilitate market access for Finnish companies' products and services to contracting party markets.
- Trade and Cooperation Agreement (TCA) with Canada, Japan, Mexico, Singapore, South Korea, Switzerland and Vietnam. The TCA with the UK is provisionally in force.
- The EU and China have reached an agreement on investments, the Comprehensive Agreement on Investment (CAI), expected to be ready for ratification in 2022

Forms of Doing Business

- Most common forms of doing business in Finland
 - **Direct sales***
 - **Sales Representative***
 - **Distributor***
 - **Licensee***
 - Sole Proprietorship
 - **Branch Office***
 - **Limited Company***
 - Partnership or Limited Partnership
 - Cooperative Association

Forms of Doing Business

- Direct Sales
 - Direct import into Finland from the U.S.
 - Purchase Agreement or Purchase Order with Terms and Conditions
 - Determine where sale takes place – if Finnish buyer takes possession of goods in U.S., then taxable in U.S. If Finnish buyer takes possession in Finland, you may be responsible for export license and expenses, passing goods through customs, tariffs, VAT and other taxes in Finland.

Forms of Doing Business

- Sales Representative
 - Sales Representative Agreement – preferably with an entity, not an individual (deemed employee concerns)
 - Paid on commission
 - Sales Representative represents principle to market products, but should not have authority to approve sales or sign purchase agreements or purchase orders on principle's behalf
 - Principle sets prices and warranty and has only authority to accept a sale
 - Sale Representative does not take title to the goods

Forms of Doing Business

- Licensee
 - License Agreement
 - License usually is for intellectual property (trade secrets, technology, copyright, trademark, service mark, patent, etc.) to allow Licensee to use the intellectual property for research, production of goods or provision of services
 - Export Administration Regulations
 - Franchise concerns
 - Licensor usually receives a license fee or royalty
 - Refer to local tax and double taxation treaty

Forms of Doing Business

- Branch Office
 - Foreign company must apply for a permit with the Finnish Patent and Registration Office (PRH), together with:
 - An extract from the register in which the foreign company is incorporated (i.e., a Certificate of Incorporation or Organization – certified and apostilled)
 - A copy of the company's Articles of Incorporation or Organization – certified and apostilled
 - The branch must have a representative in Finland
 - Any foreign-language document accompanying the Permit Application must be translated into Finnish or Swedish
 - PRH generally grants permits if the foreign company is duly registered in its home state
 - The foreign company is liable for all of the branch's activities

Forms of Doing Business

- Limited Company
 - Separate legal person for liability purposes
 - One or more shareholders with no restrictions on citizenship
 - At least one Director must be a resident of Finland or another EEA country
 - No fixed minimum paid in capital

Forms of Doing Business

- Limited Company (continued):
 - Incorporator must provide/file:
 - Board minutes of the company to be incorporated to pass a resolution to open a bank account if the company has share capital
 - Agreement on association, setting out the board members and initial shareholders and their subscriptions
 - Articles of Association
 - Trade Register notification
 - Payment receipt of the Trade Register fee (currently EUR380 (paper notification)/EUR270 (online notification))
 - Either auditor's confirmation of the payment of the share capital, or if no auditor is elected, a receipt of the payment of the share capital. There is no need for this if the company will be incorporated without the share capital.
 - Currently taking 4 to 6 weeks to incorporate
 - Cost between 3,000 and 10,000 Euro

Taxes

- Tax Regime – Finnish companies are taxed on their worldwide income, but foreign companies are taxed only on income sourced in Finland
- Corporate Tax Rate – 20%
- Value Added Tax Rates:
 - Standard Rate – 24%
 - 14% – food and animal feed and restaurant and catering services
 - 10% – certain goods and services (e.g., books, subscriptions of newspapers and magazines lasting one month or longer, accommodation, passenger transport)
 - Zero rate applies to intra-EU supplies of goods and exports of goods
 - Certain services (e.g., financial services, insurance services and certain educational services) are exempted from VAT

Taxes (continued)

- EU harmonized excise duties are levied on tobacco products, liquid fuels and alcohol, as well as electricity and certain other fuels. In addition to the harmonized excise duties.
- National excise duties levied on soft drinks, beverage containers, oil waste on lubrication oils and other oil-based lubrication preparations, oil transported through or imported into Finland, waste to landfill deposits and tall oil, as well as electricity, coal, natural gas and liquid fuels

Questions

Legal Aspects of Doing Business in the UK

Topics for Today

- US-UK trade data
- Structuring your business in the UK
- Handling your legal issues in the UK

US-UK Trade Data

US-UK Trade Data

- UK population: 67,000,000
- UK GDP: \$2.7 Trillion
- UK 7th largest goods trading partner:
 - \$132.3 Billion
 - \$59 Billion (U.S. Surplus)
- UK 5th largest services trading partner:
 - \$140.7 Billion
 - \$16 Billion (U.S. Surplus)
- U.S. exports to UK created 665,000 U.S. jobs
- U.S. exports of goods to UK have increased 51% in past ten years

US-UK Trade Data

- U.S. top exports of goods to UK:
 - Precious metals and stones
 - Aircraft
 - Mineral fuels
 - Machinery
 - Electronics
- U.S. exports of services to UK have increased 50% in past ten years
- U.S. top exports of services to UK:
 - Financial services
 - Travel services
 - Intellectual Property (Technology)
- U.S. foreign direct investment in UK: \$851.4 Billion

Structuring Your Business in the UK

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Various Ways of Doing Business in the UK

- Register as a Sole Proprietor
- Establish a Branch Office
- Establish an English (or Scottish or Welsh) Company
- Form a Partnership
- Appoint a Sales Representative
- Appoint a Distributor
- Appoint a Licensee

So, Which Way to Go?



Establishing Your Own Business in the UK

- Sole Proprietorship
 - No separate liability from individual
 - Register with the UK Government

Establishing Your Own Business in the UK

- Branch Office
 - No separate liability from U.S. company
 - Register with the UK Government
 - Used for promotional and sales purposes

Establishing Your Own Business in the UK

- Partnerships
 - General
 - Limited

Establishing Your Own Business in the UK

- Company
 - Separate legal entity
 - With separate board of directors, officers and employees
 - Limited liability
 - Public or private

Appointing Third Parties to do Business for You in the UK

- Sales Representative
- Distributor
- Licensee

Distributor

- Definition
 - Independent company
 - Takes title
 - For re-sale
 - Sets re-sale prices
 - Local advertising and promotion

Sales Representative

- Definition
 - Independent company
 - Represents U.S. manufacturer
 - Takes order, not title
 - Usually paid on commissions
 - Prices set by U.S. manufacturer
 - Does not offer warranty service or post-sales support

Licensee

- Definition
 - Independent company
 - Receives intellectual property (i.e., technology, patents, trademarks, copyrights, trade secrets, know-how) from U.S. manufacturer
 - To manufacture products or provide services
 - In exchange for license fee

Handling Your Legal Issues in the UK

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So, What Should You Do?

- Consider alternative dispute resolution
 - Mediation
 - Arbitration
 - UN Convention for Arbitral Awards
- Use litigation carefully
 - Is it worth it?
 - Realistic goals
 - Courts unlikely to award heavy damages or punitive damages

With Proper Guidance, You Can Avoid Mixed Signals and Confusion



Questions

Presenters



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