

RIBA 

Working Internationally



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Ken Storey's work in stimulating this document is acknowledged.

Disclaimer:

The information contained in this document should not be regarded as a substitute for legal advice. Members are strongly advised to consult their lawyers for advice on the legalities of practising overseas or establishing a presence in another jurisdiction. They should also consult their insurers to ensure that their current professional indemnity insurance is adequate and that cover can be extended to other jurisdictions, bearing in mind that there are substantial differences in liability regimes.

Introduction

Working overseas should be regarded as a long term investment to which resources (people and money) must be committed. There are no short cuts or quick fixes.

While processes of designing and administering contracts may often appear similar to the UK, in practice, there are subtle and even significant differences that can catch out the unwary consultant. These differences can become more acute in certain countries where consultants are expected to spend much more time on administration, on getting paid (in good time, or at all!) and transferring fees back to base.

As indigenous consultancy skills develop, foreign consultants face growing competition from locally established firms. For long term projects or where there are prospects of repeat business, setting up a local office to conform to professional regulations in host countries may be a sensible option. Otherwise, joint ventures are probably more appropriate for one-off projects. Either way, choosing the right agent or partner can be challenging, requiring good judgement and a degree of luck.

Before attempting to work in a foreign country, it is essential to have a good understanding of the people for whom you will be working, their culture, their political, economic and national objectives, the physical climate and the state of development of the construction industry and building technology. In addition, local codes and standards need to be thoroughly researched, paying particular attention to rules relating to professional registration, which can be time consuming. Professional staff sent abroad to represent a firm need to be carefully selected.

Patience, resilience and good market research is essential. Before venturing overseas, a decision needs to be made as to the role being pursued – executive consultancy (more difficult) or advisory (more straightforward).

The following pointers aim to assist members by identifying and assembling basic information which may be of assistance in preparing to work abroad. While they are not exhaustive (and are certainly not intended to put anyone off!) we have tried to include a broad range of content from the mundane (though easily overlooked) climatic and cultural considerations, to more detailed regulatory and practice-related issues.

General information

It is important to understand the basic political system and structure of government of the country in which you intend to work.

The Foreign and Commonwealth website www.fco.gov.uk provides basic information about most countries in the world, whether it is safe to travel to certain areas, passport/visa requirements, recommended inoculations, plus details of local embassies/consulates and the services they provide (including emergency services, business development services, introductions to local authorities).

Geography – UK-based consultants are used to designing for a particular set of climatic conditions and social criteria which almost invariably do not apply when working abroad. Careful study is needed of the different conditions which affect buildings in their intended location e.g. solar radiation and sky conditions, air temperature, rainfall, relative humidity, wind speeds and directions (hurricanes), earthquakes and volcanic action, soil conditions, lightning, sand storms, termites etc.

Working in remote locations can be challenging where infrastructure is poor e.g. bad roads and transport, or unreliable communication systems and electricity supplies. If you are planning to send staff to work in another country, it would be worth assessing the quality of public health systems and medical services, and determining the availability and cost of short-term/long-term office and living accommodation.

You will also need to find out whether there are any currency import/export restrictions, and in particular, whether you will be paid in an internationally convertible currency which can be repatriated. You may also wish to assess the local availability of support personnel and business support services and equipment.

Cultural awareness

Understanding social and business customs is essential to establishing successful business relationships in a foreign country.

Social customs e.g. holidays, might also impact on ability to deliver services or meet obligations where they interrupt construction of a project. Consider also the impact of time differences on communication between your office and the project site. In addition to obvious issues relating to religion and gender, attitudes to time and punctuality (both socially and professionally) differ enormously and can have a significant impact on project planning, scheduling and decision-making. In many cultures, people are less forthright than we are, direct criticism is less acceptable and great importance is attached to 'saving face'. Of course, each country will have its own, very specific customs – forms of greeting, social/professional expectations, attitude to exchange of gifts, attire and taboos.

As for business relationships, some cultures attach great importance to introductions and personal recommendations. In some countries, marketing brochures may be less effective than using an agent to transact business. The prevailing culture regarding contracts needs to be well understood, especially in relation to oral undertakings. Moreover, there may be underlying assumptions or expectations e.g. it may be common to provide additional services not mentioned in the contract. However, where written contracts are necessary, it is important to know how these are negotiated and enforced.

Business concerns

The laws/regulations of the jurisdiction in which you work will govern many aspects of your business practices.

You may need to consider issues such as licensing, taxation, the corporate/legal structure of your practice, fee scales and immigration.

You are advised to consult a lawyer for a proper assessment of legal factors relating to the conduct of business in the country in which you propose to practice and/or establish. Issues for consideration include the type of legal system (civil/codified law or common law); the availability of dispute resolution mechanisms (mediation, arbitration etc.) and whether the country has signed an arbitration agreement such as the New York Convention.

It is also important to understand any restrictions on whether (and how) one party may be indemnified by another and any requirement for architects to maintain specific types of insurance. For advice, try the RIBA Insurance Agency (Peter Godfrey, at Heath Lambert – pgodfrey@heathlambert.com – provides an initial 15 minutes of advice free of charge, thereafter commercial rates apply).

Ascertain whether any general business licenses are required at national or regional level and whether the requirements are the same for domestic and foreign businesses. You will also need to comply with all aspects of company law, employment law and taxation (personal, business and VAT). Financial considerations that may affect payment include receipt of payment and banking procedures, convertibility of currency and restrictions on repatriation of funds.

Architectural practice

The architect's role varies from one country to another.

Issues for consideration include the scope and nature of professional liability, the typical scope of professional services, the role of consultants and the nature of contracts.

Try to obtain a copy of the relevant Architects' law, Act or other legislation governing the right to practice architecture and determine whether registration is required for foreign professionals (and if so, ascertain the requirements for education, experience and professional examination).

Information is available from a variety of sources:

- National professional bodies/registration body (see UIA link below)
- The RIBA website www.architecture.com for institutional and academic links
- The Architects' Registration Board www.arb.org.uk/ has data on EU jurisdictions, while its US counterpart, the National Council of Architectural Registration Boards – NCARB www.ncarb.org/ maintains a database of practice requirements, professional associations and regulatory organisations worldwide
- International architectural organisations (the Architects' Council of Europe – ACE www.ace-cae.org the Commonwealth Association of Architects – CAA www.comarchitect.org/ and the International Union of Architects – UIA www.uia-architectes.org/)
- The various databases e.g. the Col·legi d'Arquitectes de Catalunya – COAC – compiles and maintains information about architectural practice in different countries around the world (fact files and help guides) www.coac.net/internacional

It is worth developing an understanding of expectations relating to duty of care, copyright protection (and whether a particular country is a signatory to the Berne Convention on copyright), how procurement procedures work, the process for project approvals, typical relationships between architects, owners and design team.

It is also important to identify the typical scope of professional services including planning, design, construction administration, expectations regarding on-site presence or supervision of the contractor, the form of contract used, professional indemnity insurance requirements and fee schedule (hourly, lump sum, percentage of construction cost, or statutory). You should agree well in advance the appropriate information to be produced at each stage from feasibility to construction and commissioning, in order to avoid conflict and long delays that can eat up, very quickly, any likely profit margin built into the fees.

Contracts

Many architects currently adapt the FIDIC contract.

This is produced for engineers www.fidic.org or e-mail fidic@fidic.org. The UIA is talking with FIDIC about the possibility of producing a bespoke version of this for architects.

The American Institute of Architects (AIA) has produced an architect-client agreement for international work (it may well be possible to order this from the AIA website or bookshop i.e. it does not appear to be reserved to AIA members) www.aia.org/

As for architect-architect collaborations, the Architects' Council of Europe (ACE) produced a contract in the 90s which may be found on the ACE website: www.ace-cae.org/AMembers/Content/EN/tra/pos/acoo002.html

Finally, it is necessary to identify processes for obtaining permits for zoning, planning, building construction and occupancy.

Finding partners

It can be really helpful to work with a local practice to help with matters such as building regulations, planning, materials, building techniques, tendering and contractual procedures.

This can be for a specific project, or to establish an on-going relationship. UK practices with a specialism can find this a particularly valuable way to work.

National institutes: can provide directories of architects in a particular cities, regions or countries (see contact details for international organisations on page 6).

RIBA Client Services: the RIBA provides access to lists of members in other countries who may be approached for joint venture requests. These directories have details of over 3,500 practices and more than 24,000 chartered architects based in the UK and around the globe. For free access to these directories, go to www.architecture.com/UseAnArchitect/

The RIBA client referral service is available to clients worldwide and can provide shortlists of UK-based chartered practices that fit a client's specific needs.

RIBA International Chapters: the RIBA has also established a number of Chapters around the world (RIBA-USA, with state chapters in New York, New England, California) and others in the pipeline (Gulf, Hong Kong, Singapore). The RIBA is also developing a network of ambassadors in key countries who will act as points of contact and sources of information. Further information may be obtained the Head of International Chapters chloe.sadler@inst.riba.org

Partners for Projects: the Commonwealth Association of Architects (CAA) has developed a partnering scheme for Partners for Projects (P4P) to facilitate working alliances between practices from member institutes, to compete successfully for internationally funded local projects and support local professional input.

It will enable practices in a host country to bid for major development work by being able to offer, through a P4P alliance/JV, the required skills and experience, and make it possible for authors of off-shore funded projects to engage with local culture/society, thereby reinforcing the local factor whilst benefiting from proven global skills. Those involve share similar forms of professional qualifications, common language, similar contracts and legal structures, and a shared Code of Ethics.

The HKIA (Hong Kong Institute of Architects) will maintain a register of participating practices/work opportunities, and facilitate meetings at CAA Conferences. Programme participants are CAA member institutes, practices registered with member institutes (in the UK members of the RIBA Chartered Practice scheme) and subscribers to P4P (joining fee: £200; annual subscription: c £125) and organisations involved in funding, commissioning or procuring international construction projects.

The two main components of P4P are web-based information and physical meetings and or seminars. The web-based information will comprise

- Register of practices, with contact data/profile information
- List of participating national institutes, with contact data/country information
- List of participating organisations, with contact data/profile information
- Details of project opportunities offered by the participating organisations
- News of partnerships formed and projects won by these.

A regular subscriber bulletin with update information on the above is also planned.

For further information, contact: CS@instriba.net

UK Trade and Investment (UKTI): the government's trade promotion organisation provides services to assist UK companies to export (see page 16 for further details). In particular, the Overseas Market Introduction Services (OMIS) can help you identify potential partners. OMIS puts you in touch with UKTI's overseas offices, which can give you the best country and sector-specific business advice, and offer support during your visits. OMIS is available on line in the 99 UKTI overseas markets and gives you a direct link to local experts irrespective of time zone/location. OMIS is accessible through UKTI's International Trade Teams located in over 40 local offices around England (see UKTI website, entering your postcode, for your nearest office). If you are in Scotland, Wales or Northern Ireland you will be given contact details for the appropriate national government agency. www.uktradeinvest.gov.uk

Construction industry

It would be useful to understand the typical scope of the contractor's services.

It is also useful to understand the process for soliciting bids for public/private projects, whether construction managers are commonly used, whether the use of general contractors is typical, the usual breakdown of sub-contractor trades, as well as the relationship between the owner and contractor or the architect and contractor.

Seek to understand construction methods and any laws regulating the building construction process. Assess the capabilities of the domestic construction industry and determine the feasibility of using international contractors. The same holds true for building materials (would any premium be attached to specification or UK products?). Identify the government departments that control the process (planning departments, environmental protection agencies, regional authorities etc.

Five point plan

1. Initiation

- Identify objectives, strengths, weaknesses
- Consider joining British Expertise www.britishexpertise.org/
- UKTI can provide a wealth of information on countries around the world. Individual country pages can be found on the UKTI website at www.uktradeinvest.gov.uk

2. Research in the UK

- BERR, DFID, FCO
- RIBA, CIRIA
- ACE, CAA, UIA
- Chambers of Commerce
- EIU reports, Bank reviews and other economic digests
- UN agencies
- ECGI.

3. Initial appraisal of selected country or region

- General information (socio-political, economic etc).
- Opportunities for work, finance, staff
- Architectural practice – general.

4. Good potential? Proceed with visit

- Develop cultural appreciation by joining a mission (UKTI, BE, Chamber of Commerce) or arranging a separate visit
- Prepare full appraisal including research into:
 - i. business environment
 - ii. architectural practice – detailed, including professional registration
 - iii. banking, potential market, cost of living, tax laws
 - iv. building industry capability.

5. Prepare business case

Uncertain? → Reject
OK? → Go for it!

Markets

UKTI can provide information on their priority markets.

These include China, India and Abu Dhabi. First time exporters of services might try 'soft' markets first (e.g. EU and developed countries such as the USA – where UK consultants are considered to have particularly strong 'green' credentials), while the harder markets are probably more suited to the more experienced. Four possible sectors:

- Developed countries (EU, USA etc.)
- Oil-rich countries
- Newly-industrialised countries
- Developing countries.

Service provision and establishment in the Member States of the European Union (EU) and those of the European Economic Area (EEA) have been facilitated in a number of ways. Market access issues are dealt with by various agreements and Treaties which provide residency rights.

Most UK architectural qualifications are recognised by Directive 2005/36/EC on the Recognition Professional Qualifications (which replaced the old Architects' Directive in 2008). Holders of listed diplomas may benefit from the automatic recognition afforded by this directive, and are eligible to register as architects in all other EU/EEA states. If anyone experiences difficulties registering in another Member State – and if the RIBA/ARB have been unable to help – they should contact SOLVIT, which can assist in cases where a Member State is not applying EU law properly <http://ec.europa.eu/solvit/index.htm> or via the BERR website www.berr.gov.uk

Business establishment issues are being dealt with by the Services in the Internal Market (SIM) Directive. This was approved by the EU in December 2006, for implementation in the Member States by December 2009. Of particular relevance to service providers are plans to establish, in each Member State, a Point of Single Contact, which is meant to be a 'one-stop-shop' for completion of:

- All formalities relating to establishment (including advice on employment law, company law, taxation etc.) and
- Professional registration (sign-posting from the PSC portal to the appropriate regulatory bodies for the professions).

The UK is planning to expand its Business Link service not only for foreign professionals looking to provide services in the UK, but also for UK providers looking for information on Points of Single Contact in the other Member States.

If this scheme works as expected, the Point of Single Contact in each Member States should be able to provide everything an individual needs to know for establishment and provision of architectural services.

Funding and winning projects

Projects are funded by various methods:

- Multi-lateral funding → DACON registration necessary
- Bi-lateral funding agencies → registration necessary
- Public sector → government agency register
- Private sector → national/multi-national companies register.

The onus is on the consultant to determine if funding for the project is fully or partially in place. Consultants must be prepared to fund the set up and initial stages from their own resources before fees start to roll in. Billing may only commence on completion and approval of agreed stages.

Competition is fierce and generally speaking, bottom line wins. There is little opportunity to 'load' fee proposals except in the case of private sector clients who may agree to negotiate the right fee for a quality service.

There is no universally accepted standard for services to be performed. Each firm has to make its own judgement and avoid doing too much for too little.

Corruption is a fundamental aspect of working in some countries. Dealing with this, while retaining integrity, service quality and impartiality (for which British consultants are highly regarded) is no mean feat.

The procedure for winning a job may follow many routes. A common sequence is expression of interest; short listing; technical/financial proposal (even design proposal e.g. in private sector); negotiations; signature of contract.

Work opportunities

There are many sources of information available including:

- The Appointments Bureaux (or similar) of the national institutes of architects around the world (website details may be accessed through the website of the International Union of Architects (UIA) at www.uia-architectes.org)
- Professional architects' journals and construction press (the RIBA Library collects periodicals from all over the world; available for consultation)
- United Kingdom Trade and Investment (UKTI) market leads at www.uktradeinvest.gov.uk these are also featured, where timely, in the RIBA International Newsletter, and posted to the Market Intelligence folder of RIBANet (free intranet service for RIBA members)
- For national, sectoral missions, details can be obtained by contacting UKTI's individual sector teams
- Newsfeed www.worldarchitecturenews.com
- Trade missions, details of which may be obtained from your regional Chamber of Commerce
- Official Journal of the European Union (OJEU) – www.ojeu.com
Also www.ogc.gov.uk and the Tenders Electronic Daily (TED) at <http://ted.europa.eu>
- Information may also be available from the CBI's British Business Bureau in Brussels – www.cbi.org.uk
- DACON – a database of consulting companies maintained by the World Bank dacon@dgmarket.com

Other sources of economic data on overseas markets:

- Economist Intelligence Unit (EIU *Viewswire* bulletin).
- Organisation for Economic Co-operation and Development at www.oecd.org
- World Trade Organisation www.wto.org

Setting up an office

Once a decision has been taken to work in a foreign country a choice has to be made on the form of corporate structure to be adopted:

- Agent or representative
- Work in the UK (or third country) and visit
- Establish a branch office
- Establish a local office
- Set up a joint venture.

Whichever option is selected it is important to ensure that any inter-firm agreements are set up before any work commences and all insurances are in place.

Personal risks should be known. For example, in some countries, if a dispute arises, a client's first recourse may be to impound the passport of the consultant's local representative until matters are resolved!

Professional indemnity insurance is potentially complex. Advice from brokers should be sought in advance of setting up or taking work overseas.

Logistics

In addition to professional and technical know how, who you know is also high in priority. Therefore, selection of staff is a very important consideration.

A few key factors to bear in mind in setting up an operation overseas:

- Experienced staff are highly regarded
- Health and fitness is important
- Housing, schooling and social conditions should be of a reasonable standard
- Head office support must be strong and uncompromised
- Dual language capability is a bonus
- Good communications and equipment (IT) are essential.

Other services and sources of help

- Department for Business Enterprise and Regulatory Reform (BERR) dealing with export controls, trade policy and regional trade – www.berr.gov.uk
- Department for International Development (DFID) at www.dfid.gov.uk
- Foreign and Commonwealth Office (FCO) at www.fco.gov.uk
- ECGD (Export Credits Guarantee Department) which provides:
 - Insurance to exporters against non-payment by overseas buyers
 - Guarantees for bank loans to facilitate the provision of finance to buyers of goods and services for UK companies
 - Political risk insurance to UK investors in overseas markets at www.ecgd.gov.uk/
- UKTI www.uktradeinvest.gov.uk provides a range of services including:
 - Expert guidance – to diagnose a firm's needs
 - Passport to Export – a package of services for new and inexperienced exporters
 - Communicating overseas – advice on linguistic and cultural differences, effective communications and messaging
 - Market and business opportunities
 - Local (bespoke) help with research
 - Assistance with visits to overseas markets
 - Help at home
 - Publicising products and services in overseas press.
- BOND (network of voluntary organisations working in international development) www.bond.org.uk

RIBA's Policy and International Relations Department

The Policy and International Relations Department of the RIBA has files on over 100 national architectural institutes. PIR is responsible for the RIBA's International Relations Committee, which co-ordinates all international activity, deals with matters arising from UK/RIBA membership of the EU/ACE, CAA and UIA business, trade in services and export issues.

Any suggestions for modifications, up-dating and additions should be sent to:

Ian D Pritchard, Director PIR ian.pritchard@inst.riba.org

RIBA 

Royal Institute of British Architects
66 Portland Place
London W1B 1AD
T 020 7580 5533
www.architecture.com