# Going Global: A Guide to Building an International Business

## By Alan S. Gutterman



  

## Part A. Setting up and Managing a Business Abroad

### § 1:9. Reasons for foreign business activities

Companies, both large and small, consider going global for a variety of different reasons and identifying the principal reasons for embarking on foreign business activities is an important step in ensuring that the proper strategies are selected and implemented. In most cases the company will be looking to new foreign markets for their products as a way to increase overall sales revenues and amortize the initial product development costs. Moreover, niche players and firms from smaller countries generally see international activities as absolutely necessary for growth and survival. Companies may also find foreign markets to be increasingly interesting as demand for their products in the original domestic market begins to flatten due to increasing levels of competition and satisfaction of the initial demand for their products.

The tangible benefits of foreign business activities often extend beyond generating sales revenues into other areas. For example, going global provides opportunities to reduce costs and risks, secure additional access to necessary supplies, improve customer service and relations, and gain access to new markets for the company’s goods and services. Companies may also look at global operations as a way to learn about new ways to improve operations through the company and to attract talented managers, engineers, and scientists who can make a contribution to the entire organization. Finally, foreign sales activities are also necessary to keep abreast developments in the company’s core technology area and changes in customer requirements that will ultimately impact product characteristics in each of the company’s markets.

### § 1:10. Reasons for foreign business activities—Cost reduction

For most companies, one of the primary reasons for establishing a facility or function in a foreign market is to take advantage of perceived opportunities to reduce the costs of operations and production. Labor costs can be reduced by tapping into the large pool of low-wage workers available in many countries. In addition, provided that foreign investment in land and building facilities is allowed, companies often find these resources to be much less expensive, thereby reducing capital costs. Foreign companies also often offer valuable opportunities to reduce or eliminate transactional costs through exemptions from local taxes, tariffs, and licensing and documentary fees.

### § 1:11. Reasons for foreign business activities—Risk reduction

Global operations can effectively reduce the risks associated with business operations by diversifying a company's market opportunities. For example, if a company sells goods used in connection with warm weather activities, such as swimsuits, it can literally follow the summer around the world to create a steady, year-long demand. In addition, companies with access to capital in several different foreign markets can take advantage of opportunities that may arise due to currency fluctuations to obtain the funds at the most cost effective rate.

### § 1:12. Reasons for foreign business activities—Source of supplies

Companies that use raw materials as supplies often elect to pursue sources in a variety of countries. In many cases, materials that are scarce, or even non-existent, in a company's home country will be abundant and inexpensive in a foreign market. Strategies in this area may include shipping supplies out of the foreign country or locating a manufacturing facility directly in the foreign country to further reduce the cost of the supplies. Japanese automobile manufacturers have a long history of setting up plants in oil producing countries in order to assure they have access to necessary supplies of petroleum goods that are not available in Japan.

### § 1:13. Reasons for foreign business activities—Improved customer service and relations

Companies often establish autonomous facilities, or enter into joint ventures with local partners, in foreign countries in an effort to gain a better understanding of the demands and customs of consumers in those countries. By actually being present in the country, the company can customize its goods and services to meet local requirements and begin to build brand loyalty based on customer service. In order for this strategy to be successful, however, the company must be willing and able to hire local managers who understand their own domestic market and the specifications and functionality of all of the company's products.

Another benefit of a local presence is the company's ability to improve response time to changes in demand patterns in the country. As a company's products gain acceptance in a new foreign market, customers will demand better service and support. Any failure to respond will likely lead to erosion of market share at the expense of competitors that enter the market in response to the company's own early success in selling its products.

### § 1:14. Reasons for foreign business activities—Access to new markets

Companies should look to foreign countries as potential new markets for the goods and services. New foreign markets can increase sales, diversify the company's customer base, amortize new product development costs and provide protection against variations in the domestic business cycle. Foreign markets also provide good opportunities for selling older, more mature, products that have become obsolete in more advanced markets. In addition, a network of global facilities allows a company to quickly divert products and supplies into regions where demand is booming.

While international business has traditional been seen as the domain of large multi-national firms it has become an increasingly important element of the business strategies of smaller companies that now look to international markets as a path for achieving a significant portion of their initial growth targets. Studies indicate that successful technology-based companies generally derive a significant percentage of their revenues from foreign sales activities.[1] Given that small companies generally have a limited set of technology

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[1] J.R. Feeser and G.E. Willad, Founding Strategy and Performance: A Comparison of High and Low Growth High Tech Firms, 11 Strategic Management J. 87–98 (1990) (no. 2).

  

resources, adapting their initial products for use in one or more foreign markets may be less risky, and more cost-effective, than undertaking a product diversification strategy in the domestic market. The problem is, however, that many small companies fail to understand the competitive factors that exist in foreign markets and the difficulties that will be encountered in effectively penetrating the new area including the need to find experienced and trustworthy local employees and other agents in those markets.

For companies based in countries where the domestic market is small, such as those in many parts of Europe, globalization is more than a matter of growth, it is perceived as being necessary in order for the company to survive at all. A similar argument drives companies that were launched to exploit relative small niche markets to search for similar types of customers in foreign countries with the goal of making the company the recognized world leader in its chosen area. Even companies blessed with larger domestic markets push quickly into foreign markets for survival reasons based on the need to preempt development of potential competition in those markets that will ultimately threaten the company at home.

In addition, globalization can, depending on the nature of the product, be a good way to amortize product development costs. The argument in this case is that foreign sales revenues can be used to offset the often large up-front product development costs and thus reduce the average unit costs for the product. The efficacy of this strategy will depend, however, on the resources necessary to adapt the initial product for sale and use in foreign markets. In addition, as discussed elsewhere, foreign sales activities will carry additional costs that are unrelated to the initial product development expenses, notably the expense of developing and executing an effective marketing campaign. As a result, companies often find the incremental net value of new foreign sales activities to be less than originally anticipated.

While companies should be looking to global opportunities from the time that initial product development begins, some companies will defer their interest until they reach the stage where the projected growth in domestic markets is beginning to flatten. As time goes by, the company can anticipate that new competitors will enter the domestic market and that the number of prospective customers that have not made a procurement decision will begin to erode. In either case, the rate of growth for future sales will not be as high as it was when the product was first launched. In response, the company may look to promising foreign markets that may still be at a much earlier stage of development and therefore offer prospective growth rates that are much higher than those available in the domestic market, at least over the short- to medium-term planning period. Estimates of growth must, however, be tempered by all of the risks associated with entering any new market, particularly incomplete information and inexperience with business practices in a foreign country. Moreover, investments may be required in adapting the products for the foreign market and successfully launching a marketing campaign for the products and the relatively unknown company itself. Finally, the company must consider that its competitors in the U.S. will also be interested in the same foreign markets and that local firms that have gained access to the relevant technology may have already established a base in what is their domestic market that will be difficult to overcome.

**§ 1:15. Reasons for foreign business activities—Global learning**

Education and environmental scanning is an important strategic tool for any business, regardless of size or the scope of its operations. For a company that can afford to make the investment, cross-border operations can be a powerful learning tool for enhancement of operations and product development activities. Setting up business operations in a foreign market is the best way to observe how other companies deal with the unique technological, social, cultural, and political factors that impact demand in that market. In addition, global operations can provide access to companies that have developed internationally-recognized best practices in key functional areas, such as new product development, manufacturing, and supply chain management.

Participating in key foreign markets is also now a necessity for companies needing to stay abreast of the development of technology, changing demands of customers and the activities of actual and potential customers. The information network and knowledge base for many emerging technologies is now truly global and it is common for relevant research to be carried out in universities all around the world. As such, technology-based companies can expect to be confronted by competition from companies based in a number of countries and sophisticated customers capable of using their products will be found all over the world. Moreover, U.S. customers may be owned by foreign enterprises or may have one or more foreign affiliates. In those cases, the procurement decision may be based, at least in part, on the suitability of the product for use in foreign markets where one or more members of the customer's corporate family are located.

**§ 1:16. Reasons for foreign business activities—Access to global talent**

Companies that look outward and participate actively in foreign markets can gain access to valuable human resources in those markets, as well in their own country. Many less industrialized countries, such as India, have a large pool of well-educated scientists and engineers who can provide high quality services at tremendous cost savings to firms located in higher-priced markets such as the U.S. and the European Union. By recruiting and using such resources, a company, regardless of its size, may significantly reduce its own product development costs. Global operations can have other benefits in the recruitment area. For example, a company that has established one or more foreign branches or strategic relationships can attract managers with interest and experience in international business, thereby creating a pool of talent that naturally thinks globally when the company thinks about the development of new markets and resources.

**§ 1:22. Legal considerations in operating in foreign markets**

Since commencement of some type of business activities—sales, manufacturing, logistics, financing and/or other operational activities—in at least one foreign country has now become a natural milestone for almost all growing businesses in the U.S., the managers of those firms and their attorneys must expand their understanding and expertise to include "international law." The U.S. has an extensive set of laws and regulations pertaining to all aspects of international trade and commerce, including exports, imports, immigration, antitrust, inbound foreign investment, anti-corruption, embargoes, and unfair trade practice by foreign countries and firms that injure U.S. industries. Companies will soon find that they are subject to regulation by a number of different agencies, sometimes with overlapping jurisdiction, and that the costs associated with compliance can quickly become material and must be factored into the level of investment necessary in order for the company to launch and maintain cross-border operations.

Before investing significant time and resources into launching new business activities in a foreign country, one must consider the impact of the following U.S. laws:

- **Export Controls.** Under the Export Administration Act of 1979, the Department of Commerce is responsible for implementing and enforcing controls on the transfer of items, technology, and other related services. Exporters must collect and evaluate information regarding foreign customers, comply with all applicable licensing requirements and obtain certifications from customer regarding their intended uses of controlled goods. Other types of export controls are administered by other federal agencies including the Departments of State, Treasury and Energy.
- **Anti-Bribery Laws.** Compliance with the Foreign Corrupt Practices Act ("FCPA")[2] is a matter of concern in any foreign sales representative agreement, particularly in situations where local customs may be different from those in the U.S. Among other things, the FCPA, which is enforced by the Department of Justice with support from the Securities and Exchange Commission, makes it illegal for a

[2] 15 U.S.C.A. §§ 78dd-1 et seq.

U.S. exporter to “corruptly” pay or offer to pay a foreign public official for assistance in obtaining or retaining business or from paying a representative if the exporter knows that a portion of the payment will go to a public official for the same reason.

• **Import Laws.** U.S. Customs and Border Protection, which is part of the Department of Homeland Security, is responsible for the laws and regulations concerning the importation of foreign goods. All goods imported into the U.S., with the exception of telecommunications transmissions, business records and data, corpses and certain articles returned from space, must be declared to Customs. The U.S. also requires that every article of foreign origin or manufacture imported into the U.S., with certain specified exceptions, “be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or container) will permit in such manner as to indicate to an ultimate purchaser in the United States the English name of the country of origin of the article.”

• **Immigration Laws.** U.S. immigration laws[3] will apply whenever the proposed business activities involve the movement of foreign employees to the U.S., as might occur when a U.S. party forms a domestic joint venture with a foreign firm, or foreign personnel are sent to the U.S. for training in the manufacture of products of the U.S. party that will be sold overseas. Visas are necessary for entry into the U.S. There are two basic types of visa: non-immigrant visas, which permit foreign nationals to enter the U.S. temporarily, and immigrant visas, which permit foreign nationals to live in the U.S. permanently.

• **Trade Laws.** U.S. anti-dumping laws address situations where imports are being sold at prices that are below their “normal value” (“dumping”) and where, as a result, material injury is or may be caused to a U.S. industry. Another trade law that complements anti-dumping laws is counterveiling duty laws, which accesses whether or not imports are being subsidized by foreign governments and whether or not the effects of the subsidy are causing injury to domestic industries. If serious injury is caused by imports of a particular product, the International Trade Commission will instigate investigations and determine the appropriate measures.

• **Antitrust Laws.** The federal antitrust laws of the U.S. prohibit practices that restrict trade and competition between business entities and monopolization. Various federal statutes, notably the Sherman Antitrust Act of 1890[4] and the Clayton Act of 1914 (the “Clayton Act”)[5] prohibit contracts, combinations and conspiracies in restraint of trade; monopolization and attempts to monopolize; specified discriminatory pricing practices that injure competition among purchasers of the products; and “exclusive dealing” requirements. Section 7A of the Clayton Act, often referred to as the Hart-Scott-Rodino Antitrust Improvements Act, forbids certain acquisitions of voting securities or assets unless a prior notification has been filed with the government and the specified waiting period has expired.[6] The Federal Trade Commission Act of 1914[7] outlaws any “unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce.” The federal antitrust laws are administered by the Federal Trade Commission and the Department of Justice.

• **Tax Laws.** U.S. tax aspects of international business transactions can be broken down into outbound transactions, which are those involving the application of U.S. taxes to the foreign operations and activities of U.S. taxpayers, and inbound transactions, which are those involving foreign persons who may be investing or otherwise engaging in business activities in the U.S. In addition, U.S. taxpayers doing business in a foreign country may be subject to taxation in that country and payments of foreign taxes must be taken into account in computing U.S. tax liability.

3 8 U.S.C.A. §§ 1 et seq.
4 15 U.S.C.A. §§ 1 to 7.
5 15 U.S.C.A. §§ 12 to 27a.
6 15 U.S.C.A. § 18a.
7 15 U.S.C.A. §§ 41 to 58.

While the laws and regulations described above pertain primarily to activities within the U.S., there are situations where federal statutes will also be applied to conduct outside of U.S. borders. As a general matter, absent express provisions in the statute that requires it to be applied to overseas conduct, the test will be whether the conduct in question has sufficiently direct and foreseeable consequences in the U.S. U.S. courts will apply a so-called "territorial presumption" that holds that no extraterritorial application will be inferred in the absence of an express provision in the statute.

In addition, of course, the local laws of the country in which the activities will occur must also be considered since U.S. firms will be expected to comply with the rules and regulations that each jurisdiction has established with respect to the operation of businesses and trade and commerce involving local citizens. Areas of potential concern under the local laws of the country in which the operations are to occur include the following:

- **Contract Laws.** Although there are differences amongst contract laws in various jurisdictions, in general, they are based on the premise of supporting market-based transactions within a framework that restricts contracting parties from bargaining for duties and obligations that violate some recognized public policy. While contract laws in industrialized countries, particularly those with a common law background, are similar to those in the U.S., the rules in emerging markets and developing countries are still evolving; however, it is now common to expect that the parties will be allowed to determine the essential elements of economic contract, such as quantity, quality, and price, and to also establish their own terms relating to delivery, guarantees and duration.
- **Sales Agency Laws.** One way that U.S. companies enter new foreign markets is through the appointment of a local distributor or sales agent that will be responsible for promoting the company's products and identifying customers without the U.S. firm having to incur the expense of setting up its own branch and hiring employees. While this strategy makes sense, U.S. companies must be mindful of local laws in many countries relating to the relationship between a foreign manufacturer and local agents or distributors, including laws that regulate the duration and termination of the arrangement, require that local law governs the contractual relationship, and restrict post-termination non-competition covenants on the local party. In addition, laws in some foreign countries give sales representatives who are natural persons the protections available to employees under local labor laws, including employee benefits and rules relating to termination of employment.
- **Product Testing Laws.** Products sold in international markets may be subject to testing and approval before they can be offered for sale in a given country. In the past, certain countries have used their product testing standards as a way to restrict imports of certain types of products or make importing unreasonably costly for foreign firms that might seek to compete with local producers. However, currently, industries have been moving toward adoption of international standards for larger numbers of products and services, and these standards have begun to replace the somewhat arbitrary rules that previously had to be overcome on a country-by-country basis.
- **Consumer Protection Laws.** Consumer laws address the quality and accuracy of information provided to consumers regarding products and services, as well as the quality of the products themselves. Industrialized countries have followed the lead of the U.S. in adopting sweeping and strict laws and regulations designed to afford protections to consumers. In many cases, local product liability laws may expose the company to substantial financial risk or require substantial modifications to the company's basic product.
- **Intellectual Property Laws.** While companies can achieve some level of protection under U.S. laws pertaining to patents, copyrights, trademarks and trade secrets, these rights extend only through the U.S. and its territories and possessions. Once a product is exported outside the U.S., it will no longer be protected unless the exporter fulfills the requirements for protection in the importing

country. Accordingly, intellectual property laws in each importing country must be examined to determine the protection that will be available for the company's patents, trademarks and other intellectual property once its products have been sold into the market. Substantial progress has been made on harmonizing the laws of the various countries relating to patents, copyrights and trademarks; however, trade secret rights still vary substantially around the world and will depend, in large part, on the content and enforcement of local laws pertaining to unfair competition and business ethics and practices in the importing country.

• **Healthy and Safety Laws.** Health and safety laws cover a variety of matters, including safety conditions in the factories and other workplaces, infectious diseases, health and sanitary conditions in public places, food hygiene, and safety conditions in specific industries. Health and safety standards are based on the government enforcement, and it is up to the employers and business operators to promote a safe work environment.

• **Environmental Laws.** Environmental protection has been a growing area of concern for many countries. Countries have developed many global environmental international agreements and standards in order to preserve natural resources and these may have a substantial impact on a wide range of operational activities including manufacturing, packaging and transportation. Environmental-based "green" initiatives have also created demand for products that are more energy-efficient and healthier.

• **Competition Laws.** As with antitrust laws in the U.S., competition laws in foreign countries have been created to promote fair and effective competition among autonomous enterprises and ensure that the interests of consumers are protected without the need for direct state management of the enterprises or competition. Competition regulators in foreign countries, including industrialized nations, often have different ideas about the potential impact of particular business transactions and U.S. firms must be mindful of structuring their foreign operations in a way that conforms with competition law guidelines in applicable jurisdictions. In addition to mergers and acquisitions, foreign competition laws often include detailed regulation of the terms and conditions of agency and distribution arrangements to prevent foreign parties from including provisions that would restrict competition in the local market.

• **Import Laws.** Like the U.S., foreign countries will have their own form of customs laws to regulate the inward flow of goods. These laws serve a variety of purposes, including revenue collection through tariffs and other import fees, and the enforcement of regulations that have been specifically adopted with respect to imported goods, such as quotas, trade restrictions, antidumping laws and country-of-origin marking requirements. U.S. exporters obviously need to be concerned with the customs laws of each country where they intend to sell their goods, and U.S. importers relying on goods and materials produced in foreign countries will need to be sure those items will be allowed to leave those countries without delay or undue expense. A related issue to consider is the scope and enforcement of import controls in foreign countries. In general, import controls can be classified as import prohibitions, import restrictions (quotas) and import licensing requirements, and may be based on a variety of factors, including country of origin, product type or product characteristics (e.g., products produced by convicts or under conditions deemed to be inappropriate by regulators in the foreign country).

• **Company Laws.** Company law, sometimes referred to as enterprise law, is necessary to define the legal entities or enterprises that can be used to conduct commercial activities, as well as the rights and obligations of each enterprise and the governance process for the enterprises. U.S. firms investing in foreign companies must keep in mind different international business practices, from employee representation to procedures and disclosures. In general, foreign countries offer a choice of entity forms similar to those found in the U.S., including corporations, limited liability companies and partnerships. Developing countries have also made significant progress toward constructing a legal framework for local and foreign businesses; however, governmental regulations and registration requirements may still present hurdles for U.S. investors in certain instances.

• **Inbound Foreign Investment Laws.** Most countries, including the U.S., have some sort of "investment law" or an "investment code" which would apply to foreign investment in the country, including direct investment or a joint venture with one or more local partners. Foreign investment laws may regulate any type of foreign investment or may be limited to investments in a specified industry sector, such as tourism, agriculture, services or certain manufacturing areas. Foreign investment laws usually require review of the transaction by at least one, and sometimes more than one, governmental authority. In addition, investments by foreigners may be impacted by other local legislative acts, including laws and statutes regulating foreign exchange, unfair and restrictive business practices and mergers and acquisitions.

- **Employment and Labor Laws.** Employment and labor laws are necessary for economic development to create a labor contract system, and a system for providing workers' rights and benefits. These laws and regulations play an important role in enhancing the level of worker confidence in the labor system, and in promoting labor mobility. Countries vary substantially with respect to the rights they afford to workers and labor unions still play a significant role in determining how workers must be treated. Among other things, U.S. companies establishing a new branch or subsidiary in a foreign country may be required to comply with stringent rules and procedures relating to compensation, benefits and term/termination of employment contracts.

Understanding and respecting applicable U.S. and foreign laws and regulations is obviously an ongoing challenge that does not end once the business activities have been launched and operations in a foreign country have commenced. In fact, U.S. companies should not venture into foreign markets unless and until they are prepared to invest the time and resources necessary to establish and maintain an effective global law and compliance program. Though lengthy and costly, establishing a compliance program has its legal and business advantages. Compliance programs can be used to educate employees and set standards for acceptable conduct in all the company's operations around the world. The relative importance of specific compliance areas will vary depending on the particular foreign business activities and the countries in which the company is operating; however, as U.S. companies start doing business globally they inevitably have a need for formal compliance programs relating to immigration laws, export controls, anti-bribery laws (e.g., the U.S. Foreign Corrupt Practices Act) and customs laws.

### § 1:23. Planning for global expansion

Global expansion strategies must be implemented within the context of the company's overall business plan. Accordingly, management needs to take a careful look at the opportunities that might be available to the company in foreign markets and the risks associated with pursuing those opportunities. In many cases, entry into a foreign market can provide a company with a competitive advantage over current and projected competitors. However, an alliance with a foreign partner may increase the possibility of misappropriation of the company's proprietary technology. Moreover, adapting the company's products and services to the requirements of a foreign market may be difficult and expensive.

In developing a business plan for foreign activities, companies must take into account the goals and objectives for entering a specific foreign market. For example, if the company is seeking to sell products and services in a foreign country, it must develop a comprehensive marketing plan that takes into account the unique cultural and language characteristics of the market. If, on the other hand, the company will be using an alliance with a foreign firm for manufacturing of products, or procurement of raw materials, to be used outside of the foreign market, detailed specifications and performance schedules will be needed. In either case, the company must be mindful of uncertainties that may be created by local regulations or the political environment. As such, planners should build and test various scenarios based on assumptions regarding future events and trends in the foreign market.

  

In many ways, entry into a new foreign market is similar to launching an entire new business. As such, companies need to consider the capital requirements associated with the move and determine the availability of necessary financial resources to fund the expanding international operations. For example, a budget should be prepared that includes allocations for hiring additional managers and employees, establishing a distribution channel and acquiring the information necessary to prepare a sensible marketing and overall strategic plan for the new market. While funds for these activities may be available from traditional operations, companies often have to look elsewhere to fund new international ventures. One possibility that might be considered is subsidies and other incentive programs for importers that are available from governmental entities in the target market. In addition, the company will need to recruit managers with experience in establishing and managing foreign operations, particularly foreign sales and distribution activities. The company will also need to consider how personnel focusing on international activities will be integrated into the overall organizational structure of the company, including establishment of appropriate lines of authority and guidelines for sharing resources with the traditional domestic units and functions. Finally, the company must identify, and establish relationships with, appropriate business contacts in each foreign market. Locating customers is, of course, the first order of business; however, depending on the circumstances, the company will also need to contact potential distributors, suppliers, financing sources and government officials. If the company is not able to initiate these contacts through its own internal resources, recourse will need to be made to agents in the target market.

Many firms discover that their initial export activities are quite profitable, particularly when the products in question are based on unique proprietary technology controlled by the company and sales are made into niche markets with little competition. In those cases, the company is able to obtain high margins and generally can generate a material level of sales with a relatively small outlay of marketing funds. The early successes are often eroded, however, by the additional demands that are placed on the firm as it attempts to grow the export activities beyond the initial limited size. As demand increases and interest builds in entering new markets, firms must decide whether to make substantial investments in adapting the product to new markets and educating the customers in those markets. In order for this step to be successful, companies must be prepared to develop and nurture the organizational structure necessary to support export activities. Elements of this infrastructure include managerial resources, control and information systems and strong relationships with competent local representatives.

Before substantial resources are invested in pursuing additional export activities the senior managers of the company must carefully define what will constitute “success” as the company embarks on further global expansion. In the case where the company is pursuing growth through export activity—increasing the volume and range of products offered in foreign countries and/or launching sales activities in additional foreign countries, it will be necessary to determine whether success is measured in terms of the absolute amount of export growth, profitability or perhaps the degree to which export activity becomes a larger part of the company’s overall business.

Another layer of complexity is added by the need for growing firms to continue to engage in new product development activities. Many new companies devote too much time to their initial products, including resources spent on adapting those products to new foreign markets, only to find that their competitive advantage is being quickly eroded by other companies that enter the market upon discovering the high margin opportunities. One way to proceed on this path is to rely on information provided by key customers in the larger foreign markets. By establishing good relationships with these accounts, the company can maintain its edge over late entrants and may also benefit from opportunities to create joint development projects.

The bottom line is that globalization has become a necessary, yet difficult and challenging, strategic imperative for almost all businesses and senior managers must anticipate the need to create and implement an international business plan at some point during the development of the company. As such, plans must be made to gather and evaluate the knowledge and information necessary to develop an appropriate marketing strategy in each new foreign market and obtain funding to cover the costs of adding capacity, hiring additional personnel, gathering information and establishing local distribution channels. In addition, as global markets become more important the company should expect the need to recruit qualified managers and other agents in key foreign countries who know their local market and who are able to communicate effectively with their customers.

**§ 1:24. Management challenges**

As noted above, the world offers significant business opportunities for every company. However, opportunities are accompanied by significant challenges for managers. The greatest challenges associated with doing business in a foreign country stem from attempting to deal with the distinctive, and often quite different, nature of the business environment. For example, a company looking to set up manufacturing facilities in a foreign country may encounter government controls, difficulties in making an effective transfer of core technologies, poorly trained local workers, financial restrictions, and a lack of inputs and supplies meeting the necessary quality standards.

Consider the following scenario that almost ruined one company's efforts to set up an overseas manufacturing facility. Due to government controls on foreign investment, the company was required to set up a new joint venture with a local partner. Problems began immediately as the company discovered that the local partners employees lacked the technical background to effectively absorb the technology licensed to the joint venture. Moreover, local employees assigned to the joint venture felt they were being cast adrift from their main company and were reluctant to accept training in new techniques.

An inadequate industrial infrastructure also caused problems for the company. As a condition to formation of the joint venture, the government required supplies to be purchased from local companies; however, the local inputs fell far short of the quality required to export finished goods back to the company's home market. In some cases, required inputs were unavailable in the foreign country and had to be imported. But, the importing process was delayed due to the absence of import financing and the need to satisfy local bureaucratic requirements. As a result, production cycles were delayed and costs increased significantly.
Changes in demand also played a big part in the company's problems. At the time the decision to form the joint venture was made, the government was following a national development strategy that encouraged demand for the goods that were to be produced by the joint venture. Thus, the joint venture had a reasonable expectation of strong sales in the local market before export plans could be formalized. However, as is often the case in developing countries, government strategies can shift quickly, and a sudden movement toward agricultural production created havoc with the joint ventures business plan. In addition, rising inflationary pressures led to credit controls that reduced the financial resources of potential buyers, including several government-owned businesses. Finally, the cost advantages of entering the foreign market were further reduced by the entry of low-priced imports from other countries.

The risks of going global are further increased by the increased exposure to macroeconomic and political risks in other countries. For example, inflation in a foreign country can lead to radical changes in monetary policies, including devaluation of the local currency. Macroeconomic problems can also adversely impact the availability of capital for local firms from external sources, such as multilateral agencies like the World Bank and the International Monetary Fund. A change in the political landscape in the foreign market can lead to different governmental attitudes toward core issues such as the protection of private property and the duties and obligations of companies toward their workers. These changes can lead to the adoption of new laws and regulations that increase the costs associated with using local resources.

Other important elements of the business environment in a foreign country are the socioeconomic conditions that define the marketplace and the unique cultural norms that exist within the country. Foreign companies must carefully consider how their products and marketing activities will be perceived in the local market. For example, a company marketing birth control products or food supplements for infants must consider how those items might clash with social values in the foreign country. Moreover, the potential for abuse, and misuse, of health-related products due to lack of knowledge and poor living conditions must also be measured. Differences in social classes and language in foreign countries may also dictate adjustments in the marketing messages and personnel management practices of the entering company.

Finally, U.S. managers must understand that their management technique, while largely effective in the U.S. and in other countries with a long history of industrialization, have often not been successful when transferred in a wholesale fashion to developing countries. There is a school of thought that argues that that there are universally applicable across all cultures and organizations, regardless of the economic, political and social context, and this belief been followed in management development and training programs in developing countries. Unfortunately, the idea that "one size fits all" has not prospered in the face of drastically different local customs and environmental conditions. In fact, there appears to be a growing acknowledgement the better course may be to recognize that the search for an optimal theory of management practice in a particular country requires a mix of science and art. This is particularly true given the relatively recent successes of Japanese management styles and the radical transformation of popular American management dogma to include such quick fix theories as "reengineering," "reinventing," and "downsizing."

**§ 1:25. Many faces of "going global"**

When describing a "global" company, many people continue to think of a giant multinational corporation with operations in every major metropolitan area around the world. However, for the reasons described above, global companies now come in many shapes and forms. Consider the following and see if one of these situations does not fit your company or your client:

- A processed food business in San Francisco specializing in favorite local dishes decides to export its products to Hong Kong to tap into the Asian population and the general popularity of Chinese culinary delicacies.
- A manufacturer of popular dolls in Minnesota contracts with local distributors in Scandinavia for promotion and sale of the dolls in that region. The manufacturer is able to capitalize on the favorable demographics and opportunities for using its own promotional assets (e.g., TV commercials) in the new markets.
- A producer of an animated television series in New York localizes the content for distribution in Japan. Or vice versa!
- A local dressmaker in the Carolinas uses parts imported from China.

The list goes on and on. The point is that most companies are already linked to the global economy, even if they do not spend a whole lot of time thinking about it.

**§ 1:26. Many faces of "going global"—Small businesses**

Every town has its small businesses. Most sell within a rather limited area. The customers of a laundry usually live within a few blocks; groceries are neighborhood oriented; even large furniture stores only cater to those in the metropolitan area. Increasingly, however, in towns around the U.S., small businesses are turning to foreign markets as a means of increasing sales. At times, international sales are conscious decisions based on considerable thought and analysis. At other times, companies accidentally and suddenly, without much forethought, find that they are doing business globally.

  

One real world example illustrates how a small local business can suddenly "go global." Dining Plates[8] was a small manufacturer of dental plates that employed less than 50 people. The company started its international marketing by experiment—at a marketing meeting, a junior member suggested the company run an ad in a foreign trade journal she had picked up on vacation to see if there was any interest in its product. Essentially the same as its U.S. ads, the only difference was that the ad was translated into an appropriate language. To its surprise, over the next year, the company received several inquiries. These inquiries led to sales. In less than two and one-half years, nearly 10% of its orders came from overseas.

Soon, the company found that it was faced with a dilemma. Competitors had heard about and become impressed with its foreign sales and were attempting to attract foreign customers. Dining Plates either had to fight back or begin to lose customers. With its high profit from the usually large foreign orders, there was little question as to which course it would take. The real question was how. What would be the most effective method of not only retaining customers but of expanding sales? As internal discussions continued over the proper means, recognition grew that the true potential for growth was overseas—where similar manufacturers were less technologically developed and less experienced in marketing.

A formal decision was finally made. Dining Plates would broaden its international sales through indirect marketing. An overseas agent would be sought. If this proved profitable during the next year or two, the company would consider establishing a joint venture or subsidiary overseas. The results since then were favorable and, in fact, favorable enough for the company to launch plans for full involvement in attractive foreign markets through creation of its own sales offices.
The success of Dining Plates has an important lesson. It demonstrates that small companies can be involved in international sales and make a profit. In a sense, that is the theme of this publication—any company, regardless of its size, can trade abroad as long as it has a marketable product. And, in many cases, companies may wake up and unexpectedly discover that they are global companies.

One reason for companies finding themselves doing business overseas without realizing they were developing an international presence is that the process can be an easy one—surprisingly, often more so for a smaller company than a larger one. Since the company is small and will have less impact on the economy in a foreign market, it will more often be left alone by the local government and will be less susceptible to pressures from labor unions in foreign countries. Moreover, smaller companies are often able to adapt more quickly to new opportunities and organize and re-direct internal resources through quicker communications and less formal procedures.[9] As the president of one small computer firm describing his company's experience stated, "The little fellow—with careful research, planning and perhaps some unorthodox moves—can successfully enter Europe especially for technology intensive companies."[10]

On the other hand, of course, consideration must be given to the fact doing business in remote locations carries a higher risk for smaller companies. A minor mistake can mean disaster to a small company, but only a small loss to a larger company. If a small business makes a misstep in a new foreign market, it may not be able to support even a minor drain on available financial resources, and the distractions caused by the overseas project may cause the firm to fall behind local competitors that have elected to focus solely on their own backyards. However, these are problems encountered in any new undertaking of a small company; and, unless the small company wishes to maintain its present size, it must pursue growth areas at home and abroad.

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[8] Although the name of the firm has been changed, the facts and profits are authentic.
[9] Sweeney, A Small Company Enters the European Market, Harv. Bus. Rev. 128 (Sept.–Oct. 1970).
[10] Sweeney, A Small Company Enters the European Market, Harv. Bus. Rev. 126 (Sept.–Oct. 1970).

  

### § 1:27. Many faces of "going global"—Emerging growth companies

So-called "emerging growth companies" are generally involved in innovative industries and markets and have been formed and funded to rapidly develop new technologies and related products that can quickly lead to rapid growth. In the U.S. and other areas, emerging growth companies are the favorite targets for venture capitalists; however, while the potential returns are high, the risk of failure is substantial. Emerging growth companies must confront significant risks during the early stages of development, even when operations are limited to strictly domestic markets. However, many companies find that expanding into foreign markets can actually increase their chances of success, even while they are still struggling to gain a foothold in their home market. For example, young businesses with limited financial resources may benefit from using low-cost manufacturers in foreign countries to produce goods that can be sold at attractive prices in the company's own domestic market. A new company may also seek out foreign markets that have not been identified by larger competitors and build significant market share as a barrier to entry. The success of the product or service in a smaller foreign market can then be used as a base for entering larger markets.

Surveys of growth-oriented firms in the United Kingdom confirm that entry into foreign markets for manufacturing and/or distribution is an important element of their business strategy. In fact, many of those companies begin their pursuit of international customers within the first year following formation of the firm. In the U.S., venture capitalists are now demanding that the business plans developed and presented by potential entrepreneurs include a thorough discussion of the role that globalization will play in the projected growth and development of the business. In this context, internationalization is not limited to product markets, and emerging growth companies must identify opportunities for cost savings and operational efficiencies by sending operational activities to locations outside of the U.S. This trend is not, however, without controversy as it means that many regions in the U.S., including Silicon Valley, are likely to find that new emerging companies no longer provide the same engine for local job growth.

### § 1:28. Many faces of "going global"—Large multinational companies

For many years, international business activities were perceived to be the exclusive preserve of larger companies that had the capital, managerial and technological resources necessary to overcome the risk of conducting substantial amounts of commerce outside of the U.S. While the vignettes above illustrate that smaller firms can, and often do, successfully launch foreign operations, particularly in the sales area, large multinational companies remain the models for best practices and innovative new uses of foreign resources. In fact, many large companies have established autonomous business units in key foreign markets around the world. Each of these units includes most, if not all, of the functional areas necessary for product development, sales, marketing and manufacturing geared to the specific requirements of the local market. When using this type of organizational structure, the responsibilities of the headquarters office may be limited to overall strategic planning and acting as a controller of the activities of the country-specific business units to make sure that there is no unnecessary overlap and that each business unit has access to products and business tools successfully developed by other units. Larger companies are also quicker to use foreign markets to achieve cost savings and efficiencies that can be exploited in the U.S., such as relying on manufacturing and administrative support provided by personnel in foreign countries.

### § 1:29. General guidelines for overcoming the challenges of "going global"

Globalization and building and maintaining profitable and valuable cross-border business relationships present unique challenges for the American businessperson. In addition to the usual strategic considerations that enter into any transaction or business project, U.S. firms must respect and honor cultural differences and approaches to conducting business that are often very different than those typically encountered in the U.S. Adding to the complexity is the inability to make generalizations regarding negotiations and operations in foreign markets since, in reality, each country is unique. In fact, it is often necessary to learn and practice different languages and communication strategies as one moves from region to region within a single country. A great deal has been written regarding cross-border business arrangements; however, we offer the following simple advice that we have found useful over the years:

- Patience and a commitment to investing the time and attention necessary to make the deal work are keys to success in foreign markets. Managers should not expect that the contracts will do all of the work. Remember, in many foreign countries, the "relationship" is the most important thing to the people involved. In addition, companies must be prepared to conduct ongoing reviews of the cross-border arrangement after the deal has been signed. In fact, no contract should be signed without providing for frequent, well-documented updates and status reports from responsible persons closely involved in negotiations and in the development of the company's strategic plans.
- Every situation is unique, and a solution that worked in one case may not work the next time around. Finding the right way to construct the relationship is seldom easy in the international context. For example, even the best business structure must be tested against the legal and regulatory principles that will apply in a particular country.
- Even in situations where the company is looking for relatively "short-term" results, such as an expeditious way to lower your manufacturing costs for products to be sold in the U.S., consideration should be given to long-term benefits of being present in the foreign market. For example, while the first contact with a foreign market may be focused on manufacturing, the company should consider the possibility that the market might ultimately become an important source of local sales revenues.
- Companies must do their homework before finalizing a cross-border transaction. The importance of due diligence, and the need to conduct a thorough country analysis, cannot be overemphasized. Companies must develop a reliable and consistent procedure for evaluating all the information collected and identifying as many possible scenarios as they can think of to structure any cross-border relationship. Seek objective sources of information on a country, such as materials developed by the Chamber of Commerce or the U.S. Commercial Service. The people who have put this information together have spent a good deal of time studying the country and offer a viewpoint that is very different from that of persons who have an immediate interest in having the company enter the market.
- It is easy to get caught up in analyzing a particular market entry decision; however, managers should not forget that the decision to go global must make sense in the context of the rest of the company's resources and requirements. For example, if possible, every new foreign relationship should add value to the company's efforts in related markets. This means that a distribution relationship with an Asian firm should not only open market opportunities in the partners own country, but also in one or more related regions.
- While legal due diligence is an important element of any going global decision, the ultimate evaluation should be made by an interdisciplinary team of experts with skills in a number of different disciplines, including accounting, finance, personnel, sales, marketing and manufacturing. Each expert can provide a unique perspective on data collected during the information-gathering process.
- While local contacts and resources are important, it should not be assumed that they guarantee success of the relationship. Every effort should be made to identify all the skills necessary to make the arrangement work and recruit the personnel who can best run the business or administer the contract. It is important to remember that finding the "right" people to work with the foreign country is the key to penetrating the market. In many cases, the best candidates are not necessarily the most experienced or expensive people available.

  