

Chapter 3: The Political, Legal, and Regulatory Environments of Global Marketing

Learning Objectives

- Describe how the political environment affects global marketing decisions
- Discuss the functions of international law and the legal issues that affect global businesses
- Explain the significance of intellectual property rights, antitrust laws, and licensing agreements to global marketers
- Describe the nature of corruption in the global business environment
- Discuss the rising use of arbitration among international firms
- Explain the roles of regulatory agencies and trade agreements in international trade

Chapter Overview

The legal and political environment of global marketing is the set of governmental institutions, political parties, and organizations that are the expression of the people in the nations of the world. In particular, anyone engaged in global marketing should have an overall understanding of the importance of sovereignty to national governments. The political environment varies from country to country, and risk assessment is crucial. It is also important to understand a particular government's actions with respect to taxes, dilution of equity control, and expropriation. The legal environment consists of laws, courts, attorneys, and legal customs and practices. Although these environments are complex, astute marketers plan ahead to avoid situations that might result in conflict, misunderstanding, or outright violation of national laws.

Lecture Outline

- I. The Political Environment (p. 77)
 - a. Nation-States and Sovereignty
 - b. Political Risk

- c. Taxes
 - d. Dilution of Equity Control
 - e. Expropriation
- II. International Law (p. 80)
 - a. Common Versus Code Law
- III. Sidestepping Legal Problems: Important Business Issues (p. 82)
 - a. Establishment
 - b. Jurisdiction
 - c. Intellectual Property: Patents and Trademarks
 - d. International Trademark Filings
 - e. Antitrust
 - f. Licensing and Trade Secrets
- IV. Bribery and Corruption (p. 91)
 - a. Forms of Corruption
 - b. Estimating the Pervasiveness and Magnitude of Corruption
 - c. Characteristics of Countries with High Perceived Corruption
 - d. Anticorruption Laws and Regulations
- V. Conflict Resolution, Dispute Settlement, and Litigation (p. 95)
 - a. Alternatives to Litigation for Dispute Settlement
- VI. The Regulatory Environment (p. 98)
 - a. The European Union
 - b. The World Trade Organization and Its Role in International Trade
- VII. Ethical Issues (p. 100)
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Web Sites

www.uspto.gov for U.S. information

www.european-patent-office.org for information about Europe

Suggested Answers to Discussion Questions

1. *What is sovereignty? Why is it an important consideration in the political environment of global marketing?*

The term “sovereignty” is defined in the chapter as “supreme and independent political authority.” Sovereignty is a central consideration in several global business issues today. For example, Europe views the U.S. Helms-Burton legislation against Cuba to be an unacceptable extension of sovereignty outside the U.S. “extraterritorial sovereignty” is also invoked by those who object to the constraints that the Foreign Corrupt Practices Act places on U.S. businesses.

2. *The political risk scores for Taiwan and the United States were identical in June of 2011. Do you agree that these countries have an identical level of political risk? Why? Why not?*

Political risk – the risk of a change in government policy that would adversely impact a company’s ability to operate effectively and profitably – can deter a company from investing abroad. The level of political risk is inversely proportional to a country’s stage of economic development. All other things being equal, the less developed a country, the greater the political risk. The political risk of high-income countries is quite limited as compared with countries at earlier stages of development. It is for

these reasons that even though the risk scores may be the same, the levels of political risk are different.

3. *St. Ambrose said, “When you are in Rome live in the Roman style; when you are elsewhere live as they live elsewhere.” Do you agree with his advice? Why? Why not?*

At a general level, this is wise advice. In order to be readily assimilated into the local cultural environment, it is important to understand (though not necessarily embrace) local culture and customs. If you find the local customs to be legally, morally or ethically in contradiction with your and/or your home country's view, then it is best to err on the side of caution and not totally “live as they live.”

4. *Briefly describe some of the differences that relate to marketing between the legal environment of a country that embraces common law as opposed to a country that observes civil law.*

Common-law countries follow the Anglo-Saxon tradition of relying on precedent established by past judicial decisions. Civil-law countries look to codes as the sources of authority. Under civil law the judicial system is divided into civil, commercial and criminal law thus commercial law has its own administrative structure. In code-law countries, intellectual property rights must be registered whereas in common-law countries, some – such as trademarks but not patents – are established by prior use.

5. *Global marketers can avoid legal conflicts by understanding the reasons conflicts arise in the first place. Identify and describe several legal issues that relate to global commerce. What alternatives are available from a marketing perspective?*

To prevent international legal problems related to marketing, a company should hire a legal firm with international experience in the countries where it is doing business.

Table 3-1 shows the leading international law firms and the percentage of lawyers outside the home country.

6. *You are a sales representative of a multinational corporation traveling on business in West Africa. As you are leaving country X, the passport control officer at the airport tells you there will be a passport “processing” delay of one hour. You explain that your plane leaves in 30 minutes and the next plane out of the country does not leave for three days. You also explain how valuable your time is (at least \$300 an hour) and that it is urgent that you catch the flight you have reserved. The official listens carefully to your appeal and then “suggests” that a contribution of \$1000 would definitely assure your passport clearance priority treatment, and considering how valuable your time is, it is quite a bargain. Would you comply with the “suggestion?” Why? Why not? If you would not comply, what would you do? If you comply with the suggestion, have you violated any laws? Explain. If the official requests \$25, have you violated any laws?*

Bureaucratic corruption consists of isolated transactions executed by individual public officials that abuse their office. These transactions include the demand for bribes and would cover the situation described in the scenario. Additionally, this situation is a form of according-to-rule corruption. According-to-rule corruption exists when bribes are made/received in order to receive preferential treatment for something that a public official can legally do. While the activity described in the

scenario would be considered a form of bribery, paying the ‘fee’ would facilitate your clearance and get you on your way. The \$\$ amount is irrelevant.

7. *“See you in court” is one way to respond when legal issues arise. What other approaches are possible?*

Arbitration can be faster, easier, and less expensive than litigation. Arbitration bodies include the International Chamber of Commerce, the New York Convention, the American Arbitration Association, and the Swedish Arbitration Institute.

8. *If you were Nike, what would you do to prevent negative publicity regarding reports of unsafe factory conditions?*

This is both a legal and an ethical problem. Nike sources their manufacturing and therefore does not legally own any of the factories where their shoes are produced. Therefore, legally they are not at fault regarding unsafe conditions. However, this does present an ethical issue. Nike sources their goods in countries with low wages and poor labor regulations so technically these factories are operating legally given the local laws. Does this absolve them of any responsibility? No. Ethical issues are at stake. After receiving some negative publicity, Nike has set up a program to monitor their suppliers. Now the question becomes “Do they enforce this program of standards?” It might serve Nike well if they engaged in some proactive programs (also known as favorable publicity) by offering safe working conditions to the employees, providing housing, etc.