

Legal implications for international business



What pertinent aspects of U. S. law should the company be aware of in its goal to do business internationally?

1. The Trans-Pacific Partnership that was one of the biggest multinational deals signed on 2/4/16 Mexico and U. S being among the twelve participants. If the deal successfully becomes a reality the business amongst those countries shall prosper primarily baring I mind that TPP deal will cover 40% of the World economy. For U. S and Mexico, it will boost its economic growth by increasing exports in the regions represented. Trans-Pacific Partnership (TPP) Agreement is to design policies for economic alliance intended to develop a high quality, inclusive contract that lays the foundations for economic growth, the development of employment in the affiliate countries, and that in spin become the basis for the future, Turnes, et. al, (2015).
2. The Commerce Control List (CCL) lists maintained by the Bureau of Industry and Security of the U. S. Department of Commerce.
3. North American Free Trade Agreement (NAFTA) - This agreement was enacted in 1994 which since has created a free trade zone for Mexico, Canada, and the United States. By strengthening the rules and procedures governing trade and asset, the NAFTA has proved to be a sound basis for building the three zones business victory and has set an outstanding example of the privileges of trade liberalization for the rest of the world. Its impact has been seen in creating the largest free trade region in the world, generating economic growth and helping to raise the standard of living for the people of all three member countries, Turnes, et. al, (2015).

4. Legal Issues- As of, Koehler, M. (2009), one example is the U. S. Foreign Corrupt Practices Act (FCPA), which prohibits bribery of foreign government officials and officials of public international organizations. Also, the company can identify standard FCPA due diligence procedures to be considered on an international representative, such as, for the consideration of the relationship between the representative and relevant governmental entities.
5. Foreign direct investment (FDI) upon Mexico in 2010, foreign direct investment plays a vital position in globalized economies, mainly export oriented ones like Mexico. Foreign direct investment is a catchall class that refers to longer-term, cross-border business activity and joint ventures. The massive ten FDI sources to Mexico are USA, Japan, Spain, Holland, Canada, UK, Switzerland, Germany, Italy, and Sweden, Villarreal, (2010).

Appraise the legal implications of moving business abroad unique to each nation. What are the benefits and disadvantages of each?

1. Compliance Programs- Many U. S. and foreign laws control the international business activities of U. S. companies. If a company does or plans to do business overseas, it should put an updated compliance program in place to address the legal issues that arise from such activities. One standard is the U. S. Foreign Corrupt Practices Act (FCPA), which prohibits bribery of foreign government officials and officials of public international organizations. Under the FCPA, a U. S. company can be held liable for the activities of its consultants, joint venture partners, or a recently acquired subsidiary, Koehler, M. (2009).

2. The impact of this is that the company tends to establish an environment in which employees and agents are familiar with the company is serious about compliance. Hire skilled and honest personnel to start with, and then be able and willing to conduct an internal exploration if any violations are suspected. The adverse consequences arising from an unlawful transaction can be substantial, including revocation of export and import privileges, ineligibility from government contracts, negative publicity, plus the cost and interruption of responding to a government investigation. Paying attention to compliance is a necessary step toward the success of your global expansion.
3. Direct Export- The significance of this is that it lower costs for the few new resources required, Complete control of operations by a parent, allows for a trial period, less exposure to liability, except for product responsibility and not subject to foreign tax unless it is a permanent establishment.

On the other hand, the disadvantage is that it the distance from the market and less responsive to customer's needs, leads to less timely service, since no one is on the scene, less visible commitment to the market, and no local warehouse from which to meet customer emergencies.

4. Standards of Behavior and Performance - In drawing up the actual documents, the company should carefully consider the configuration of the relationship, the terms of the agreement and the scope and length of the clauses. These requirements and their enforceability will take on increased importance when complicated by distance and differences in

legal systems. Labor agreements should be reviewed for acceptability in both cultures. As of, McAdams, (2014), the most-favored-nation (MFN) clause is a requirement of participation in the General Agreement on Tariffs and Trade (GATT) that requires member nations to extend any agreements requiring trade tax decrease to all members, forming a common market among countries involved.

What are the ethical implications involved in this business decision?

1. Codes of conduct must render clear direction about moral behavior when the temptation to act unethically is strongest. The declaration in a code of conduct that bribery is unacceptable is worthless unless supplemented by guidelines for gift giving, payments to get goods through customs, and “ requests” from intermediaries who are hired to ask for bribes.
2. In context to, Turnes, et. al, (2015), Outsourcing of jobs is an ethical issue especially of U. S to Mexico for introducing cheap labor in Mexico. The deal of NAFTA taking jobs away from Americans and hiring inexpensive workers from a third world country; this is a negative ethical practice in the eyes of U. S. individuals.
3. Public Image Issues: The citizens of the town based companies suppose them to promote employment opportunity to them. But what all these business expansions has brought about is cheap labor acquired from the other countries affecting large population the US in particular based. This overall harms the image of the company practices which the public scrutinize it as an unethical business practice.

Explain how other domestic enterprises have managed to comply with the U.S. laws related to this decision of activity in the past.

1. Over the past decades, various companies have significantly been affected whenever complying with US laws. They include companies like Wal-Mart and Citibank, which have suffered billions of dollars in fines for asserted falsifying documents to get the paperwork essential to managing their trade legally. Citibank has also been involved in laundering money to avoid paying the necessary legal fees and taxes on their income.
2. Companies such as Coca-Cola, General Motors, and IBM have come up with procedures to put into place regarding compliance with the laws and their expansion. However, there has been a negative public perception of those companies which have transferred their business operations to Mexico leaving behind workers without employment. Some employees of these companies have filed complaints with the labor board, and many have been settled however this does not do much for public trust if the companies have engaged more operators in the US plants later the layoffs.
3. Nike Company is an example of who outsources but has come across issues in regards to such. Nike's business replica has been to produce products in third world countries at a cheap rate so as to use more funds in hostile marketing campaigns. Nike has been on limelight that its clothing company has had workers who are employed at very low wages, work incredibly long hours, and are given poor conditions to work in; if Nike had treated employees in the same matter in the U. S.

that they did overseas, it would be a very clear violation of many labor laws. In the 1990's when news broke out of Nike's alleged poor working conditions in their supplier factories, Nike continuously issued press releases and made public statements rebutting those claims.

How did these companies address potential compliance issues?

1. It is recommended that any increase into Mexico include the hiring of in-house legal advice as well as Human Resources personnel who are adequately skilled in the rules and laws recounting to US-Mexican requirements for business. During individual are not compulsory, they are highly supported along with using a Customs Broker to ensure acquiescence with Customs Laws and NAFTA, Villarreal, (2010). It is also advised based on researching companies like Coca-Cola, which the company connects the services of an entity of who is well versed in environmental compliance laws and potential issues in Mexico.
2. Companies like Coca-Cola have chosen a team of individuals who work solely on compliance issues. These people are well educated and trained in the laws and other compliance acts. They always strive to maintain valid and up-to-date information on the right of their employees in the issue they feel their equities have been dishonored. These companies also operate with third party companies who regularly audit the outside agencies Coca-Cola uses in the international plants. These reviews are completed anywhere from yearly to every three years. Any issues found to be in non-compliance are immediately reported, investigated, and in some instances, the outside

agencies are relieved from their contracts if there is a continued problem with non-compliance.

3. In turn, to be compliant with public policy, Nike halted in making false statements about their business practices. Additionally, in regards to violating fundamental human rights, Nike has implemented a grading system to assure that they are not utilizing factories that violate basic human rights; violating basic human rights is a degradation of the Alien Tort Claims Act (ATCA).

References

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