Landfill in Lesotho with chemicals & dyes from The Gap & Levi Strauss plants
All Business is International

• Economic Interdependence
• Globalization

Israeli children with American Superhero backpacks
Advertisements, Tokyo ⇒
Chinese goods on way to US ↓
Dubai at night ➔
Port of Malta ➔
Jeweler, Egypt ➔
Actroid Humanoid Robot

European Space Agency Columbus module

Cloned Pig, Taiwan
Syria’s oldest market
McDonald’s in China
Waterfront in Curacao
Port of Wilmington
Globalization

- Affects business formation, contracts and negotiations, logistics, etc.
- Affects how you do business abroad

Modern Shanghai
What is “international law”?
International Law

- Public International Law
  - formed by international customs, treaties, and organizations
  - governs relations among nations
- Private International Law
  - national laws (laws of a particular nation) related to international issues that affect private citizens

Afghani Women in Front of UN Sign
Sources of International Law

The sources of international law are:

- International Customs
- Treaties and International Agreements
  - Including regional treaties (NAFTA, EU, ASEAN, Mercosur)
- International Organizations and Conferences
- National Laws
Two Basic Doctrines

• Important doctrines applied in the interest of maintaining harmonious relations among nations include:
  – Act of State Doctrine
  – Doctrine of Sovereign Immunity
Act of State Doctrine

• Judicial branch of one country will not examine validity of public acts committed by recognized foreign government within its own territory

• Thus nations may:
  – Expropriate
  – Confiscate
Doctrine of Sovereign Immunity

- Exempts foreign nations from jurisdiction in U.S. courts
- Foreign Sovereign Immunities Act expanded jurisdiction of U.S. courts for creditors of foreign governments
- Note: sovereign immunity also prevents a citizen from suing his/her government!
Treaties impact private individual rights because a state’s obligation becomes a citizen’s obligation – E.g., Convention on Global Warming
General Agreement on Tariffs and Trade

• Primary treaty affecting U.S. business
  – Initiated after WWII
  – Goal: reduce & eliminate trade barriers
  – US signed in 1994, with 124 other nations

• GATT created World Trade Organization (WTO) to resolve trade disputes
  – Currently (8/09): 153 members
World Trade Organization

- WTO’s decision record causes concern about impact of trade on environment & human rights
- WTO working on General Agreement on Trade in Services

Protesting Trade Issues – Washington, DC

- Automatically applies to international sales transactions of businesses within signatory nations unless they opt out
- Similar to the U.S. Uniform Commercial Code (UCC), but writing not required, mirror image acceptance allowed, and additional breach of contract remedies
The laws applying to private parties in international transactions
- related to “conflict of laws”
- began with Sea Law of Rhodes in 300 BC

Not a separate body of law, but web of state laws, treaties, and conventions that affect choice of law, choice of forum, and the recognition and enforcement of judgments
International law applies to business to the extent it affects business organization and development, ways of doing business in foreign states, and ways of doing business domestically with foreign trading partners.

Textile plant in Sri Lanka; contractor for major US lingerie firms.
International Business Methods

- Trade
- Foreign Direct Investment
- Technology Transfer & Licensing

Port of Bremerhaven, Germany
TRADE

• Importing
  • Process of buying goods from foreign supplier and entering them into customs territory of different nation

• Exporting
  • Shipment of goods or rendering of services to a foreign buyer located in a foreign country

Chinese workers making “Navajo” jewelry for US market
• Relatively uncomplicated process that can give comparative advantage

Of course, some things just don’t translate properly.

Candy package
Trade Trends

• US trade stats:
  • US merchandise imports accounts for 1/5 of world trade
  • world's 2nd largest exporter (Germany is 1st, 7% above US)
  • imports, primarily from Canada & China, exceed exports, primarily to Canada & Mexico

• Global trade in services increasing
  • about 20% of global trade and 60% of global output
U.S. International Trade in Goods and Services

Imports

Exports

Balance

JUNE 2009
TRADE BALANCE
-$27.0 Billion

June 2007
June 2008
June 2009

Billions $

U.S. Department of Commerce, June 2009
Letter of Credit

- Primary financial device used in int’l business transactions to reduce risk
  - Sample Letter of Credit
  - Another Sample LOC
- Involves buyer’s and seller’s banks and supporting assoc’d banking institutions
FOREIGN DIRECT INVESTMENT

- Refers to ownership and active control of ongoing business concerns
  - investment in mfg, mining, farming, assembly operations, and other forms of production
- Provides most involvement & risk
  - Risk of expropriation or obstacles to funds repatriation

Ernst & Young in Sydney
Foreign Direct Investment (cont.)

• Forms of Multinational Enterprises (MNEs):
  • Wholly owned foreign subsidiary
  • Joint venture
  • Acquisition

Walmart in Shenzhen, China
Technology Transfer

- Definition: exchange of technology and manufacturing knowledge between firms in differing nations through licensing agreements or franchising

*Sprite On Fire* advertisement – with a “spicy ginger burning sensation”
Technology transfer is an "easy" method of entry into international market.

Technology transfer agreements incorporate transfer of intellectual property rights:
- Trademark, patent, or copyright

Most nations closely regulate technology transfers.
Technology Transfer

- Transfer requires agreement or contract by which holder of intellectual property grants certain rights in that property to a foreign entity under specified conditions for a specified time.

  e.g., right to manufacture product pursuant to patent, right to use trade mark or image, right to distribute artwork or book.

  Sometimes intellectual property simply is stolen!
Licensing

- Licensing: applied in manufacturing context
  Licensor grants licensee right to: (a) manufacture products in accordance with a patent, (b) produce or apply a trade name, trade image, or trademark to products, or (c) publish, print, or otherwise produce art or literary works under a copyright

Nike plant in Viet Nam
Franchising (business operations context):
Franchisor grants franchisee right to use a trade name, trade image, trademark, copyrights, and patents (in sum, business know-how) in exchange for royalty payments to franchisor.
I.P. Piracy

• From 2003 - 2007, core copyright industries (TV and film production) accounted for 5.6 million jobs and $889 billion in contributions to GDP, translating to about 23% of overall growth of US economy in 2006-2007.
  – International Intellectual Property Alliance (IIPA)

• For every $2 worth of software purchased legitimately, $1 worth was obtained illegally (Business Software Alliance, Piracy Study, 2006)
I.P. Piracy

GROWING MENACE

U.S. CUSTOMS SEIZURES OF COUNTERFEIT GOODS

MILLIONS OF DOLLARS

Likely less than 5% of total counterfeits entering the U.S. annually

FISCAL YEAR ENDING SEPT. 30

Data: Dept. of Homeland Security, BW estimate

Counterfeits in China
I.P. Piracy

- Approximately 600,000 copies of movies are downloaded daily (Motion Picture Assoc., 8/04)

- Counterfeits make up 10% of global market in medicines (World Health Organization 2004)

- Pirates staged 445 attacks in 2003, killing at least 21 people (The Independent, 3/04, UK)
Regulation of Specific Activities

• Nations impose laws and controls to restrict or facilitate international business
  – Investing
  – Marketing and Sales
  – Production
  – Export and Import Controls: Quotas, Tariffs and Anti-Dumping Rules

• Influenced by International Organizations and Agreements: World Trade Org., European Union, regional agreements (e.g., NAFTA)
U.S. Trade Controls

• U.S. has substantial export controls, e.g.,
  – Export Administration Act of 1985
    • Permits federal govt to restrict exports if they endanger national security, harm foreign policy goals, or drain scarce materials
    • Controlled Commodities List limits what may be exported; license required and may be denied
  – Arms Export Control Act
    • President may create 2nd list of controlled goods related to military weaponry
U.S. also has substantial import controls

- Tariffs or Duties
  - A tax imposed on goods when they enter a country
  - Customs officials “classify” the goods, then impose duty based on classification
  - Example: Marubeni America v. U.S. (Pathfinder)

Non-Tariff Barriers

- Non-tariff trade barriers are non-monetary methods of limiting imports
  - Quotas: limiting amount of a particular good
  - Import ban: preventing a particular good or particular nation’s imports (e.g., Cuba)
  - Standards for ingredients, manufacturing, etc.
    - E.g., Japan requires “kimono guards” on imported US autos
    - E.g., the “tuna-dolphin” dispute was centered on a US attempt to prevent importation of certain ingredients (tuna caught “on dolphin”) in canned tuna
U.S. Law Abroad

- U.S. antitrust laws and the Foreign Corrupt Practices Act apply to activities of U.S. firms and persons even when they are abroad.
- Foreign persons and governments can sue (theoretically) under U.S. antitrust laws and the Alien Tort Claims Act in U.S. courts.
Generally, U.S. firms must abide by U.S. anti-discrimination law, even in foreign activities, unless doing so would require them to violate laws of the foreign country.

This is the “long arm” of US law.
Dispute Settlement

• Options for resolution of international contract disputes are like civil disputes in the United States
  – Litigation or Alternate Dispute Resolution, including Arbitration or Mediation

• Primary problems in international business disputes relate to jurisdiction, discovery, enforceability, and collections
Risky Business

• Doing business abroad can be complicated and costly
  – requires risk management
• Before doing business overseas:
  • Perform a risk assessment (political risk, contractual and transaction risk, currency and exchange rate risks)
  • Develop appropriate strategy
  • Develop crisis management plan
  • Insure for risk!

Barcelona McDonald’s damaged in protest of US invasion of Iraq
Managing Risk

• In strategic planning:
  • Consider problems of distance, communication, cultural differences, relevant laws
  • Retain professional assistance (government agencies, attorneys, brokers, bankers) when appropriate!
  • Prepare for ethical issues
• How might an international sale alter the method of doing business?

• Compare: California firm importing textiles from China vs. California firm buying textiles from North Carolina textile mill
• How would selling goods in a nonmarket economy differ from selling in a market economy?

• What if a dispute arises?

Market in Mali
• Business Formation & Corporations

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Astral Travel in Grenada