

NAVIGATING GLOBAL MARKETS

International trade is not the reserve of big business



by James Colvin, Partner at DMH Stallard

Driving into the unknown is never a wise thing to do, but by the same token it is equally nonsensical to dismiss every unknown as a bad bet. For the majority of UK businesses the global market is untested. But post-Brexit many business owners may feel that dipping a toe or two into international waters is not only preferable, it is necessary. And why not? If you manufacture products or offer services that have global appeal, customers are customers wherever they are. Operating in foreign markets can quickly become the 'norm' for businesses rather than some sort of niche activity.

At DMH Stallard we've been helping clients navigate their way through the global markets for many years, and while every country is different – customs, culture, ethics, taxes, governments, and of course, language – there are some steps you can take to ensure you stay on the right course.

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Your starting point

Once you've looked at developing an overseas market strategy and considered how that fits with your UK business strategy, consider getting in touch with UKTI. We have interviewed a number of businesses about operating abroad that have heaped praise on the advice and guidance UKTI offers. Many cited UKTI's country research and intelligence reports being of particular use

when starting out on the road to exporting. June's earthquake at the polls may well lead to many more exporting opportunities as new trade agreements are entered into with countries around the world as Brexit gathers pace. UKTI will therefore be a vital first stop for understanding the most up to date position.

Their advisors have real expertise in the markets that you will want to penetrate. This intelligence is backed up by extensive research reports available through their Open Market Introduction Service. I know that many business owners who have engaged with the UKTI have subsequently been on trade missions with them and had the use of the facilities within UK embassies overseas. While I'm sure you've attended a business exhibition in the South East at some point, there's nothing quite like presenting your business and networking at an international trade show in Shanghai or Mumbai – something else the UKTI will help you to participate in.

The Department for Business, Energy & Industrial Strategy (formerly The Department for Business Innovation & Skills) is another government office that is worth visiting.

Stepping stones

Building successful and long-lasting relationships with people on the ground is fundamentally important. Whether you speak the language or not, don't make the mistake of thinking you're under the skin of indigenous cultures and business practices – good local knowledge is vital – simply sharing the same language is a million miles away from sharing the same culture.

Using distributors for selling stock and commodity items, and agents for more complex activities such as developing customer relationships, project management and managing suppliers, is seen by many new to foreign markets as a sensible move.

Whether you use distributors in your new foreign market is clearly a choice you'll need to make. Many businesses start this way and once established they create a permanent presence of their own.

Be aware of local laws that sometimes make ending a relationship with a distributor or agent very difficult. Occasionally, some will negotiate an 'earn out' with the distributor. Whatever your strategic end game, having bulletproof agreements and contracts in place that cover all the main risks help avoid a lot of pain and expense.

All these key local relationships must be nurtured. Businesses we work with invest time in making regular visits to foreign climes to see their partners and organise events to celebrate new business links, discuss new products and services, and get feedback on the ground.

Many businesses will also utilise a regional office as a hub to export around a specific geographical area such as the Middle East or Latin America.

Canada is a good staging post for the US. Companies use it as base to sell to distributors before eventually setting up an office in the US. Having a presence in Canada to manage the US market is advantageous in respect of the business friendly environment in that country, such as the R&D tax credits and the North American Free Trade Agreement.

Risks & Red tape

Fuelled by conflict, acute political instability and the breakdown of law and order in a number of countries, geo-political considerations are increasingly complex but absolutely necessary. In several high risk

countries assessments are made on the risk to staff of terrorism and kidnapping, particularly prevalent in Central and South America. The government departments already highlighted and the Foreign Office are there to assist with this crucial analysis.

Protecting key Intellectual Property (IP) will always be a challenge in new and little known jurisdictions. For all businesses keen to fly the flag abroad, staying ahead of the game is important, especially for manufacturers. Manufacturers should take every step possible to protect IP which is at the heart of their business, rather than having to battle costly disputes that could potentially arise in the future.

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One company we know very aggressively defended its IP and took out application patents as well as process and technology patents to stop their competitors accessing the market. They also have well-drafted non-disclosure agreements which have proved a successful basis for enforcement action in overseas jurisdictions.

Expect frustration when your products, already proudly displaying the CE quality standard approval, which theoretically is acceptable in many countries, aren't given the red carpet treatment by certain governments around the world. The local approval process can take far too long (three years compared to two weeks in some EU countries) and is seen as an indirect strategy for protecting local suppliers.

When transporting goods, a company we know of learned to its cost to avoid 'consolidated transport'. This is where an airline creates a bulk consignment to a country by combining the goods of various customers together to offer a cheaper option. This company discovered that when part of the consolidated batch from another customer encountered problems with customs or other import or export requirements, the whole

consignment got delayed. The theoretical savings did not materialise and the tactic was a false economy.

Most companies when dealing with a new market will prudently put all orders on a pro-forma basis to start with: customers and distributors are invoiced up front and invoices are settled before goods are shipped. "Credit can come later" was the usual approach of businesses interviewed, with one only being prepared to discuss credit facilities after at least 12 months of working with a customer. Letters of credit are commonly used.

Our top tips for successfully establishing an international market:

- Create an export strategy that is integral with your business strategy – avoid the temptation for tactical initiatives
- Undertake all the research you can and take advantage of any government support and advice
- If engaging a local distributor or agent do so in full knowledge of expectations on both sides and the local laws
- Invest time understanding the culture and local customs
- Use representatives fluent in the native language and original language documents (rather than English translations) wherever possible
- Take precautions to value, register and protect your intellectual property
- Consider how you will get paid carefully
- Stay compliant and environmentally friendly
- Look for networks of businesses in similar position to share experiences and best practice.

DMH STALLARD is an award winning law firm providing strategic and operational legal advice to clients, enabling them to protect and grow their businesses. We have an established track record of working with clients on a range of international assignments and are a member of a global network, Law Europe International. We have produced a number of reports on exporting which can be found on our website www.dmhstallard.com.

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For more information on how DMH Stallard can help your organisation please contact james.colvin@dmhstallard.com.