Answer on Question #40257 – Marketing – Other

Once you have decided to sell your products abroad, it is time to develop an export plan. A crucial first step in planning is to develop broad consensus among key management on the company's goals, objectives, capabilities, and constraints. In addition, all aspects of an export plan should be agreed upon by the personnel involved in the exporting process, as they will ultimately execute the export plan.

The purposes of the export plan are (a) to assemble facts, constraints, and goals and (b) to create an action statement that takes all of these into account. The statement includes specific objectives, it sets forth time schedules for implementation, and it marks milestones so that the degree of success can be measured and help motivate personnel.

At least the following ten questions should ultimately be addressed:

1. Which products are selected for export development? What modifications, if any, must be made to adapt them for overseas markets?

2. Which countries are targeted for sales development?

3. In each country, what is the basic customer profile? What marketing and distribution channels should be used to reach customers?

4. What special challenges pertain to each market (competition, cultural differences, import controls, etc.), and what strategy will be used to address them?

5. How will the product's export sale price be determined?

6. What specific operational steps must be taken and when?

7. What will be the time frame for implementing each element of the plan?

8. What personnel and company resources will be dedicated to exporting?

9. What will be the cost in time and money for each element?

10. How will results be evaluated and used to modify the plan?

The first time an export plan is developed, it should be kept simple. It need be only a few pages long, since important market data and planning elements may not yet be available. The initial planning effort itself gradually generates more information and insight. As the planners learn more about exporting and your company's competitive position, the export plan will become more detailed and complete.

From the start, the plan should be viewed and written as a management tool, not as a static document. Objectives in the plan should be compared with actual results to measure the success of different strategies. The company should not hesitate to modify the plan and make it more specific as new information and experience are gained.

A detailed plan is recommended for companies that intend to export directly. Companies choosing indirect export methods may require much simpler plans.

Developing an Export Strategy

The most common methods of exporting are indirect selling and direct selling (). In indirect selling, an export intermediary such as an export management company (EMC) or an export trading company (ETC) normally assumes responsibility for finding overseas buyers, shipping products, and getting paid. In direct selling, the U.S. producer deals directly with a foreign buyer. The paramount consideration in determining whether to market indirectly or directly is the level of resources a company is willing to devote to its international marketing effort. Other factors to consider when deciding whether to market indirectly or directly include:

- The size of your firm;
- The nature of your products;
- Previous export experience and expertise;
- Business conditions in the selected overseas markets.

Approaches to Exporting

The way your company chooses to export its products can have a significant effect on its export plan and specific marketing strategies. The basic distinction among approaches to exporting relates to the company's level of involvement in the export process. There are at least four approaches, which may be used alone or in combination:

1. Passively filling orders from domestic buyers who then export the product. These sales are indistinguishable from other domestic sales as far as the original seller is concerned. Someone else has decided that the product in question meets foreign demand. That party takes all the risk and handles all of the exporting details, in some cases without even the awareness of the original seller. (Many companies take a stronger interest in exporting when they discover that their product is already being sold over-seas.)

2. Seeking out domestic buyers who repre-sent foreign end users or customers. Many U.S. and foreign corporations, general contractors, foreign trading companies, foreign government agencies, foreign distributors and retailers, and others in the United States purchase for export. These buyers are a large market for a wide variety of goods and services. In this case a company may know its product is being exported, but it is still the buyer who assumes the risk and handles the details of exporting.

3. Exporting indirectly through intermediaries. With this approach, a company engages the services of an intermediary firm capable of finding foreign markets and buyers for its products. EMCs, ETCs, international trade consultants, and other intermediaries can give the exporter access to well-established expertise and trade contacts. Yet, the exporter can still retain considerable control over the process and can realize some of the other benefits of exporting, such as learning more about foreign competitors, new technologies, and other market opportunities.

4. Exporting directly. This approach is the most ambitious and difficult, since the exporter personally handles every aspect of the exporting process from market research and planning to foreign distribution and collections. Consequently, a significant commitment of management time and attention is required to achieve good results. However, this approach may also be the best way to achieve maximum profits and long-term growth. With appropriate help and guidance from the Department of Commerce, state trade offices, freight forwarders, international banks, and other service groups, even small or medium-sized firms can export directly if they are able to commit enough staff time to the effort. For those who

cannot make that commitment, the services of an EMC, ETC, trade consultant, or other qualified intermediary are indispensable.

Organizing for Exporting

A company new to exporting generally treats its export sales no differently than its domestic sales, using existing personnel and organizational structures. As international sales and inquiries increase, the company may separate the management of its exports from that of its domestic sales.

The advantages of separating international from domestic business include the centralization of specialized skills needed to deal with international markets and the benefits of a focused marketing effort that is more likely to increase export sales. A possible disadvantage is that segmentation might be a less efficient use of corporate resources.

When a company separates international from domestic business, it may do so at different levels in the organization. For example, when a company first begins to export, it may create an export department with a full or part-time manager who reports to the head of domestic sales and marketing. At later stages, a company may choose to increase the au tonomy of the export department to the point of creating an international division that reports directly to the president.

Larger companies at advanced stages of exporting may choose to retain the international division or to organize along product or geographic lines. A company with distinct product lines may create an international department in each product division. A company with products that have common end users may organize geographically. For example, it may form a division for Europe and another for the Pacific Rim. A small company's initial needs may be satisfied by a single export manager who has responsibility for the full range of international activities. Regardless of how a company organizes its exporting efforts, the key is to facilitate the marketer's job. Good marketing skills can help the firm operate in an unfamiliar market. Experience has shown that a company's success in foreign markets depends less on the unique attributes of its products than on its marketing methods.

Once your company is organized to handle exporting, a proper channel of distribution needs to be carefully chosen for each market. These channels include sales representatives, agents, distributors, retailers, and end users.

Sales Representatives

Overseas, a sales representative is the equivalent of a manufacturer's representative in the United States. The representative uses the company's product literature and samples to present the product to potential buyers. A representative usually handles many complementary lines that do not conflict. The sales representative usually works on a commission basis, assumes no risk or responsibility, and is under contract for a definite period of time (renewable by mutual agreement). The contract defines territory, terms of sale, method of compensation, reasons and procedures for terminating the agreement, and other details. The sales representative may operate on either an exclusive or a nonexclusive basis.

Agents

The widely misunderstood term "agent" means a representative who normally has authority, perhaps even a power of attorney, to make commitments on behalf of the firm he or she represents. Firms in the United States and other developed countries have stopped using the term and instead rely on the term "representative," since agent can imply more than intended. It is important that any contract state whether the representative or agent does or does not have legal authority to obligate the firm.

Distributors

The foreign distributor is a merchant who purchases goods from a U.S. exporter (often at a substantial discount) and resells it for a profit. The foreign distributor generally provides support and service for the product, thus relieving the U.S. company of these responsibilities. The distributor usually carries an inventory of products and a sufficient supply of spare parts and also maintains adequate facilities and personnel for normal servicing operations. Distributors typically handle a range of non-conflicting but complementary products. End users do not usually buy from a distributor; they buy from retailers or dealers.

The terms and length of association between the U.S. company and the foreign distributor are established by contract. Some U.S. companies prefer to begin with a relatively short trial period and then extend the contract if the relationship proves satisfactory to both parties.

Foreign Retailers

A company may also sell directly to foreign retailers, although in such transactions, products are generally limited to consumer lines. The growth of major retail chains in markets such as Canada and Japan has created new opportunities for this type of direct sale. This method relies mainly on traveling sales representatives who directly contact foreign retailers, although results might also be achieved by mailing catalogs, brochures, or other literature. The direct mail approach has the benefits of eliminating commissions, reducing traveling expenses, and reaching a broader audience. For optimal results, a firm that uses direct mail to reach foreign retailers should support it with other marketing activities.

American manufacturers with ties to major domestic retailers may also be able to use them to sell abroad. Many large American retailers maintain overseas buying offices and use these offices to sell abroad when practical.

Direct Sales to End Users

A U.S. business may sell its products or services directly to end users in foreign countries. These buyers can be foreign governments; institutions such as hospitals, banks, and schools; or businesses. Buyers can be identified at trade shows, through international publications, or through Commerce's Export Contact List Service. (Contact your local EAC for more details).

The U.S. company should be aware that if a product is sold in such a direct fashion, the company is responsible for shipping, payment collection, and product servicing unless other arrangements are made. Unless the cost of providing these services is built into the export price, a company could have a narrower profit than originally intended.

A U.S. company may obtain much of this information from business associates who currently work with foreign representatives. However, U.S. exporters should not hesitate to ask potential representatives or distributors detailed and specific questions. Suppliers have the right to explore the qualifications of those who propose to represent them overseas. Well-qualified representatives will gladly answer questions that help distinguish them from less-qualified competitors. Your company should also consider other private-sector sources for credit checks of potential business partners.

In addition, the U.S. company may wish to obtain at least two supporting business and credit reports to ensure that the distributor or representative is reputable. By using a second credit report from a different source, the U.S. firm may gain new or more complete information. Reports from a number of companies are available from commercial firms and from the Department of Commerce's International Company Profiles. Commercial firms and banks are also sources of credit information on overseas representatives. They can provide information directly or from their correspondent banks or branches overseas. Directories of international companies may also provide credit information on foreign firms.

If the U.S. company has the necessary information, it may wish to contact a few of the foreign firm's existing U.S. clients to obtain an evaluation of the representative's character, reliability, efficiency, and past performance. To protect itself against possible conflicts of interest, it is also important for the U.S. firm to learn about other product lines that the foreign firm represents.

Once the company has prequalified some foreign representatives, it may wish to travel to the foreign country to observe the size, condition, and location of offices and warehouses. In addition, the U.S. company should meet the sales force and try to assess its strength in the marketplace. If traveling to each distributor or representative is difficult, the company may decide to each of them at U.S. or at worldwide trade shows.

Negotiating an Agreement with a Foreign Representative

When the U.S. company has found a prospective representative that meets its requirements, the next step is to negotiate a foreign sales agreement. EACs can provide counseling to firms planning to negotiate foreign sales agreements with representatives and distributors. The International Chamber of Commerce also provides useful guidelines and can be reached at 212-206-1150.

Most representatives are interested in the company's pricing structure and profit potential. Representatives are also concerned with the terms of payment, product regulation, competitors and their market shares, the amount of support provided by the U.S. firm (sales aids, promotional material, advertising, etc.), training for sales and service staff, and the company's ability to deliver on schedule.

The agreement may contain provisions that the foreign representative:

- Not have business dealings with competing firms (because of anti-trust laws, this provision may cause problems in some European countries);

- Not reveal any confidential information in a way that would prove injurious, detrimental, or competitive to the U.S. firm;

- Not enter into agreements binding to the U.S. firm; and,

- Refer all inquiries received from outside the designated sales territory to the U.S. firm for ac-tion.

To ensure a conscientious sales effort from the foreign representative, the agreement should include a requirement that it apply the utmost skill and ability to the sale of the product for the compensation named in the contract. It may be appropriate to include performance requirements such as a minimum sales volume and an expected rate of increase.

In the drafting of the agreement, special attention must be paid to safeguarding the supplier's interests in cases where the representative proves less than satisfactory. It is vital to include an escape clause in the agreement, allowing the supplier to end the relationship safely and cleanly if the representative does not fulfill the firm's expectations. Some contracts specify that either party may terminate the agreement with written notice 30, 60, or 90 days in advance. The contract may also spell out exactly what constitutes just cause for ending the agreement (i.e., failure to meet specified performance levels). Other contracts specify a certain term for the agreement (usually one year), but arrange for automatic annual renewal unless either party gives written notice of its intention not to renew.

In all cases, escape clauses and other provisions to safeguard the supplier may be limited by the laws of the country in which the representative is located. For this reason, the supplier should learn as much as it can about the legal requirements of the representative's country and obtain qualified legal counsel in preparing the contract. These are some of the legal questions to consider:

- How far in advance must the representative be notified of the supplier's intention to terminate the agreement? Three months satisfy the requirements of many countries, but a verifiable means of conveyance (i.e., registered mail) may be needed to establish when the notice was served.

- What is just cause for terminating a representative? Specifying causes for termination in the written contract usually strengthens the supplier's position.

- Which country's laws (or which international conventions) govern a contract dispute? Laws in the representative's country may forbid the representative from waiving its nation's legal jurisdiction.

- What compensation is due to the representative on dismissal? Depending on the length of the relationship, the added value of the market the representative created for the supplier, and whether termination is for just cause as defined by the foreign country, the supplier may be required to compensate the representative for losses.

- What must the representative give up if dismissed? The contract should specify the return of property such as: patents, trademarks, name registrations, and customer records.

- Should the representative be referred to as an agent? In some countries, the word agent implies power of attorney. The contract needs to specify if the representative is or is not a legal agent with power of attorney.

- In what language should the contract be drafted? In most cases, the contract should be in both English and the official language(s) of the foreign country.

The supplier should also be aware of U.S. laws that govern such contracts. For instance, the supplier should seek to avoid provisions that could be contrary to U.S. anti-trust laws. The Export Trading Company Act of 1982 provides a means to obtain anti-trust protection when two or more companies combine for exporting (see the section of OETCA, earlier in this chapter). In any case, the supplier should obtain legal advice when preparing and entering into any foreign agreement.

Foreign representatives often request exclusivity for marketing in a country or region. It is recommended that suppliers not grant exclusivity until the foreign representative has proven his or her capabilities or that it be granted for a limited, defined period of time, such as one year, with renewal possible. The territory covered by exclusivity may also need to be defined, though some countries' laws may prohibit that type of limitation.

The agreement with the foreign representative should define what laws apply to the agreement. Even if a supplier chooses a U.S. law or that of a third country, the laws of the representative's country may define which law applies. Many suppliers define the U.N. Convention on Contracts for International Sale of Goods (CISG) as the source of resolution to contract disputes or defer to a ruling by the International Court of Arbitration of the International Chamber of Commerce.