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THE POLITICAL, LEGAL & TECHNOLOGICAL ENVIRONMENT IN GLOBAL SCENARIO

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Abstract

The environment that international managers face is changing rapidly. The past is proving to be a poor indicator of what will happen in the future. Changes are not only more common now but also more significant than ever before, and these dramatic forces of change are creating new challenges. Although there are many dimensions in this new environment, most relevant to international management would be the economic environment that was covered in the research and the cultural environment. Also important are the political, legal and regulatory, and technological dimensions of the environment. The objective of this research is to examine how the political, legal and regulatory, and technological environments have changed in recent years. Some major trends in each that will help dictate the world in which international managers will compete also are presented.

Key Words: Act of State Doctrine, Civil or Code Law, Islamic Law, Protective Principle, Common law

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1. Introduction

The opening case provides an excellent example of some of the problems associated with globalization within the context of political, legal, and technological environments. Clouded by long-standing relationships and their commitment to growth, shareholders, government officials, and others appeared to turn a blind eye to the firm's suspicious financial management practices. In an era of accelerating integration and technological advancement, political and legal developments in one region of the world can have profound impacts in many others. MNCs must therefore be sensitive to the changing political, legal, and technological landscape in which they operate.

2. Political Environment

The domestic and international political environment has a major impact on MNCs. As government policies change, MNCs must adjust their strategies and practices to accommodate the new perspectives and actual requirements. Moreover, in a growing number of geographic regions and countries, governments appear to be less stable; therefore, these areas carry more risk Hum they have in the past. The assessment of political risk will be given specific attention in research, but the following examines political developments in selected areas and countries that are particularly relevant to today's international management. China is an emerging economic power that cannot be ignored by international business. The Chinese political environment, however, is very complex and risky because of the government's desire to balance national, immediate needs with the challenge of a free market economy and globalization. China has made trade liberalization a top priority. For example, at the present time the Chinese government is trying to sustain its economic growth. If growth is slower, the economy will likely not be able to generate enough jobs to take in the more than 10 million Chinese that enter the workforce each year, as well as the millions being laid off by restructured state enterprises. In the past, economic growth was not a problem.

In order to ensure that the economy does not fall into the economic malaise that has been sweeping the rest of Asia, the Chinese government has stepped up efforts to encourage foreign investment. There were indications that the country's economic strength was showing signs of fatigue. While the Chinese government has made strides toward a free-market economy, bureaucratic structures still protect many local and state-owned firms from competition. In response, the government has begun giving approval to projects that had been bogged down in bureaucratic red tape and announced a series of steps to open up the economy. Despite these developments, MNCs face a host of major obstacles when doing business with and in China. For example, government regulations severely hamper multinational activity and favor domestic companies. Additionally, it is difficult to find qualified people, and when a multinational does and then invests money in training these individuals, it is common to find them leaving for jobs with other companies. Yet the biggest problem may well be that the government does not know what it wants from multinational investors, and this is what accounts for the mixed signals and changes in direction that it continually sends. Those who have studied China's economic transition over the past have noted that this transition is unusual in that it is planned by a state that maintains an active involvement of governmental institutions in business affairs. This approach is so different from anything that MNCs have previously encountered that the experiences of these firms in other emerging economies is often insufficient to provide them the guidelines and insights that they need to do business in China. In fact, the peculiarities of China's system not only generate uncertainties for MNCs, but the nature of the transition challenges the capabilities of current international business theory.

Far away from Chinese politics, the political situation in Europe also continues to change. Although privatization and economic liberalization continue to reinforce EU-wide political and economic integration, leaders in major countries, as well as the EU itself, are finding it difficult to firmly establish a foothold of power. As a result, international managers must remain alert as to how political changes may impact their business. That the nations of Western Europe, with the exception of Norway and Switzerland, now are part of the EU only adds to the complexity of the political environment. MNCs cannot avoid political risks even when doing business with individual countries because of what the dictate. Along with China, Russia presents one of the most extreme examples of how the political environment impacts on international management. Neglect, corruption, and confusing changes in economic policy had taken their toll. The country's infrastructure was literally falling apart. Electricity was regularly cut off throughout the country, gas pipelines sprang leaks on a daily basis, industrial accidents were commonplace, toxic waste seeped from industrial plants into drinking water supplies, and almost half of the country's freight and passenger railroad cars needed to be replaced. Worse yet, the little funds that were available to begin rebuilding the infrastructure were in the hands of inefficient managers. Despite continued economic reforms, the outlook for Russia is still uncertain. The challenge for the Russian government is to keep the economy on an even keel while attracting more foreign investment. One of the big problems is corruption. The European Bank for Reconstruction and Development reports that almost a third of firms doing business in Russia indicate that they are required to give bribes in order to do business and that these monies add to the overall cost of doing business there. As more MNCs invest in Russia, these unethical practices will face increasing scrutiny. To date, many multinationals feel that the risk is too great. Still, most view Russia as they do China; it is too large and potentially lucrative a market to ignore. This is why General Motors recently struck a deal to manufacture cars in Russia.

Besides Russia, the political situation in the rest of the post-communist countries in Central and Eastern Europe is also in a state of flux. Many of these countries, including Poland, Hungary and the Czech Republic, had joined the EU. These nations have undergone tremendous economic reforms in preparation for joining the EU. However, many problems remain as these countries merge with the existing EU structure and work to make the transition from a centrally planned to a market economy. Conducting business in the Middle East is, in many ways, similar to operating a business in the Western world. A thorough knowledge of the regulations governing business activities, the legal environment, tax regimes, accepted accounting methods, business structures, import/export regulations, manpower and labor regulations, restrictions on foreign capital, investment incentives, and the presence of exchange controls is necessary to succeed in the region. The Arab countries have been a generally positive place to do business, for many of these nations are seeking modern technology and most have the financial ability to pay for quality services. Worldwide fallout from the war on terrorism, the Afghanistan and Iraq wars, and the ongoing Israel-Arab conflicts, however, have raised tensions in the Middle East considerably, making the easiness environment there risky and potentially dangerous.

3. Legal and Regulatory Environment

One reason why today's international environment is so confusing and challenging for MNCs is that they face many different laws and regulations in their global business operations. These factors affect the way businesses are developed and managed within host nations, so special consideration must he paid to the subtle differences in the legal codes from one country to another. Adhering to disparate legal frameworks sometimes prevents large MNCs from capitalizing on manufacturing economies of scale and scope within these regions. In addition, the sheer complexity and magnitude requires special attention. This, in turn, results in slower time to market and greater costs. MNCs must lake time to carefully evaluate the legal framework in each market in which they do business before launching products or services in those markets. When compared with domestic law, international law is less coherent because its sources embody not only the laws of individual countries concerned with any dispute but also treaties (universal, multilateral, or bilateral) and conventions (such as the Geneva Convention on Human Rights or the Vienna Convention of Diplomatic Security). In addition, international law contains unwritten understandings that arise from repealed interactions among nations. Conforming to all the different rules and regulations can create a major problem for MNCs. Fortunately; much of what they need to know can be subsumed under several broad and related principles that govern the conduct of international law. The principle of sovereignty holds that governments have the right to rule themselves as they see fit. In turn this implies that one country's court system cannot be used to rectify injustices or impose penalties on another unless that country agrees. So, while U.S. laws require equality in the workplace for all employees, U.S. citizens who take a job in Japan cannot sue their Japanese employer under the provisions of U.S. law for failure to provide equal opportunity for them.

International law provides for three types of jurisdictional principles. The first is the nationality principle, which holds that every country has jurisdiction (authority or power) over its citizens no matter where they are located. Therefore, a U.S. manager who violates the American Foreign Corrupt Practices Act while traveling abroad can be found guilty in the United States. The second is the territoriality principle, which holds that every nation has the right of jurisdiction within its legal territory. Therefore, a German firm thin sells a defective product in England can be sued under English law even though the company is headquartered outside of England. The third is the protective principle, which holds that every country has jurisdiction over behavior that adversely affects its national security, even if that conduct occurred outside the country. Therefore, a French firm that sells secret U.S. government blueprints for a satellite system can be subjected to U.S. laws. The doctrine of comity holds that there must be mutual respect for the laws, institutions, and government of other countries in the matter of jurisdiction over their own citizens. Although this doctrine is not part of international law, it is part of international custom and tradition.Under the act of state doctrine, all acts of other governments are considered to be valid by U.S. courts, even if such acts are inappropriate in the United States. As a result, for example, foreign governments have the right to set limits on the repatriation of MNC profits and to forbid companies from sending more than this amount out of the host country. Countries have the legal right to refuse admission of foreign citizens and to impose special restrictions on their conduct, right of travel, where they can stay, and what business they may conduct. Nations also can deport aliens. This is a principle of U.S. justice as it applies to international law. At their discretion, U.S. courts can dismiss cases brought before them by foreigners; however, they are bound to examine issues such as where the plaintiffs are located, where the evidence must be gathered, and where properly to be used in restitution is located. The principles described above help to form the international legal and regulatory framework within which MNCs must operate.

4. Trade and Investment

Regulation of international trade and investment is another area in which individual uses their legal and regulatory policies to affect the international management environment. The rapid increase in trade and investment has raised concerns among countries that others are not engaging in fair trade, based on the fundamental principles of international trade as specified in the WTO and other trade and investment agreements. Specifically, international trade rules require countries to provide "national treatment," which means that they will not discriminate against others in their trade relations. Unfortunately, many countries engage in government support (subsidies) and other types of practices that distort trade. For example, many developing countries require that foreign MNCs take on local partners in order to do business. Others mandate that MNCs employ a certain percentage of local workers or produce a specific amount in their country. These practices are not limited to developing countries. Japan, the United States, and many European countries use standards, and oilier policies to protect domestic industries and restrict trade. It should be noted, however, that the general trend has been to reduce trade and investment harriers among all countries. In response to real or perceived unfair trading practices and to concerns over large and increasing trade deficits, the United States and other countries undertake investigations of unfair trading practices, some of which result in retaliatory tariffs. In the United States, there has been particular concern about trade with China, partly resulting from the fact that the Chinese economy is not fully market-based.

5. Technological Environment & Global Shifts in Production

The technological environment is changing at lightning speed. For example, while semiconductor firms are now working to develop new memory chips for personal computers, other high-tech firms are trying to create technologies that will replace the PC with even belter computing architecture. At the same time, computers, telephones, televisions, and wireless forms of communication have merged to create multimedia products and to allow users anywhere in the world to communicate with each other. Today the number of people who use cellular phones is greater than ever, and in countries such as Finland. Norway and Sweden over half the population are cellular subscribers. In addition, a growing number of people have access to the Internet, allowing them to obtain information from literally millions of sources. The development and subsequent use of these technologies have greatly benefited the mostly developed countries in which they were first deployed. However, the most positive effects should be seen in developing countries where inefficiencies in labor and production impede growth. Although all of these technological innovations will affect international it, specific technologies will have especially pronounced effects in transforming economies and business practices. The following discussion highlights some specific dimensions of the technological environment currently facing international management.

As the Internet becomes increasingly common, it is having a dramatic effect on international commerce. For example, millions of Americans have purchased books from Amazon.com and the company has now expanded its operations around the world. So have a host of other electronic retailers who are discovering that their home-grown retailing expertise can be easily transferred and adapted for the international market. Dell Computer has been offering B2C (electronic business-to-consumer) goods and services in Europe for a number of years, and the automakers are now beginning to move in this direction. Most automotive firms sell custom cars online. Other firms are looking to use e-business to improve their current operations. For example, Deutsche Bank has overhauled its entire retail network with the goal of winning affluent customers across the continent. Yet the most popular form of e-business is for business-to-business or B2B dealings such as placing orders and interacting with suppliers worldwide. The area of e-business that will most affect global customers is e-retailing and financial services. This technological development also will have a major impact on financial institutions. After all who will need the local corner ATM when they can tap into their funds through the Internet? Similarly, companies will not have to wait for their money from buyers, thus eliminating (or at least substantially reducing) bad debts while increasing their working capital.

The most obvious dimension of the technological environment facing international management today is telecommunications. To begin with, it no longer is necessary to hardwire a city to provide residents with telephone service. This can be done wirelessly thus allowing people to use cellular phones, pagers, and oilier telecommunications services. As a result, a form of technologic leapfrogging is occurring, in which regions of the world are moving from a situation where phones were unavailable to one where cellular is available everywhere including rural areas, because the infrastructure needed to support this development can be installed both quickly and relatively inexpensively. In addition, technology is merging the telephone and the computer. As a result, in Europe and Asia growing numbers of people are now accessing the Web through their cell phones. While this development has not attracted a large market in the United States, over 125 million Asians and 50 million Europeans now use this service. Over the next decade, the merging of the Internet and wireless technology will radically change the ways people communicate. Wireless technology is also proving to be a boon for less developed countries such as in South America and Eastern Europe where customers once waited years to get a telephone installed. Many governments are reluctant to allow so much private and foreign ownership of such a vital industry; however, they also are aware that foreign investors will go elsewhere if the deal is not satisfactory. The Hong Kong office of Salomon Brothers, a U.S. investment bank, estimates that to meet the expanding demand for telecommunication service in Asia, companies will need to considerably increase the investment, most of which will have to come from overseas. MNCs are unwilling to put up this much money unless they are assured of operating control and a sufficiently high return on their investment.

6. Technology, Outsourcing, and off-shoring

In international management, technology also impacts the number of employees who are needed to carry out operations effectively. As MNCs use advanced technology to help them communicate, produce, and deliver their goods and services internationally, they face a new challenge how technology will affect the nature and number of their employees. Some informed observers note that technology already has eliminated much, and in the future will eliminate even more of the work now being done by middle management and white-collar staff. Mounting cost pressures resulting from increased globalization of competition and profit expectations exerted by investors have placed pressure on MNCs to outsource or offshore production to take advantage of tower labor and other costs.'[1]" In the past century, machines replaced millions of manual laborers, but those who worked with their minds were able to thrive and survive. During the past three decades in particular, blue-collar, smokestack industries such as steel and autos have been downsized by technology, and the result has been a permanent restructuring of the number of employees needed to run factories efficiently. The same thing happened in the white-collar service industries (insurance, banks, and even government). Most recently, the same has occurred with the dot-coin bubble bursting and hundreds of thousands of jobs being lost, probably forever. Some experts predict that in the future technology has the potential to largely displace employees in all industries, from those doing low-skilled jobs to those holding positions traditionally reserved for human thinking. For example, voice recognition is helping to replace telephone operators; the demand for postal workers has been reduced severely by address-reading devices; and cash-dispensing machines can do 10 times more transactions in a day than bank tellers, so tellers can be reduced in number or even eliminated entirely in the future.

Emerging information technology also makes work more portable. As a result, MNCs have been able to move certain production activities overseas to capitalize on cheap labor resources. This is especially true for work that can be easily contracted with overseas locations. For example, low-paid workers in India and Asian countries now are being given subcontracted work such as labor-intensive software development and code-writing jobs. A restructuring of the nature of work and of employment is resulting from such information technology. The new technological environment has both positives and negatives for MNCs and societies as a whole. On the positive side, the cost of doing business worldwide should decline thanks in the opportunities that technology offers in substituting lower-cost machines for higher-priced labor. Over lime, productivity should go up, and prices should go down. On the negative side, many employees will find either their jobs eliminated or their wages and salaries reduced because they have been replaced by machines and their skills are no longer in high demand. This job loss from technology can be especially devastating in developing countries. However, it doesn't have to be this way. A case in point is South Africa's showcase for automotive productivity, the Delta

Motor Corporation's Opel Corsa plant in Port Elizabeth. To provide as many jobs as possible, this world-class operation automated compared to European and North American auto assembly. Also, some industries can add jobs. For example, in the computer and information technology industry, even with its ups and downs, the negative has been offset by the positive. For example, over the last decade, employment in the U.S. computer software industry has increased. In less developed countries such as India, a high-tech boom in recent years has created jobs and opportunities for a growing number of people." Additionally, even though developed countries such as Japan and the United States are most affected by technological displacement of workers, both nations still lead the world in creating new jobs and shifting their traditional industrial structure toward a high-tech, knowledge-based economy. The precise impact that the advanced technological environment will have on international management over the next decade is difficult to forecast. One thing is certain, however; there is no turning back the technological clock. MNCs and nations alike must evaluate the impact of these changes carefully and realize that their economic performance is closely tied to keeping up with, or ahead of, rapidly advancing technology.

7. The World of Business Week – A Review

The Business Week article illustrates, the forces of globalization are drastically altering political, legal, and technological environments worldwide. Because vast global footprint, the scandals reverberated across the globe, adversely affecting both institutional and individual investors in the United States, Europe, and Asia. Now more than ever, international managers need to be aware of how differing political, legal, and technological environments are affecting their business and how globalization, security concerns, and other developments influence these environments. Changes in political, legal, and environmental conditions open up new business opportunities and close some old ones. In light of the information learned from reading this research, you should have a good understanding of these environments and some of the ways in which they will affect companies doing businesses abroad.

8. Summary

Today's political environment presents a myriad of challenges for MNCs. China is going through a transition as the old guard passes from the scene. The political situation in Europe also continues to change. Russia is facing political and economic problems and social upheaval, and the rest of Central and Eastern Europe has had varying degrees of success with their newfound freedom and continue to struggle with their past. The current legal and regulatory environment is both complex and confusing. There are many different laws and regulations to which MNCs doing business internationally must conform, and each nation is

unique. Also, MNCs must abide by the laws of their own country. For example, U.S, MNCs must obey the rules set down by the Foreign Corrupt Practices Act. MNCs doing business in Japan and the EU face a wide range of bureaucratic rules and regulations that often are both time-wasting and inefficient. Privatization and regulation of trade also affect the legal and regulatory environment in specific countries. The technological environment is changing quickly and is having a major impact on international business. This will continue in the future. For example, money transfers and exchange are changing dramatically. Also, areas such as telecommunications offer developing countries new opportunities to leapfrog into the 21st century. New markets are being created for high-tech MNCs that are eager to provide tele-communications service. Technological developments also impact both the nature and the structure of employment, shifting the industrial structure toward a more high-tech, knowledge-based economy. MNCs that understand and take advantage of this high-tech environment should prosper, but they also must keep up, or ahead, to survive.

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