

# ENTERING EMERGING MARKETS

## Alternatives Considerations

The emerging markets offer substantial opportunity for North American law firms. As trade between such places as the BRIC economies and the rest of the world continues to increase, the ability of law firms to conduct transactions on a transnational basis will become increasingly important to their existing and potential clients. But that does not mean organic expansion is the only way to go when developing a strategy, especially given the recent questioning of the BigLaw business model. There are numerous alternatives and considerations to take into account.

A report by the Economist states that 57% of executives surveyed worldwide said South East Asia was the most attractive destination. Given the relative slowdown of legal work in the Western world, emerging markets in Asia are starting to look attractive again to law firms. The key question facing North American firms revolves around market entry strategy and geographic coverage. For example, Hong Kong can act as a gateway in and out of China and there are many prominent US law firms already here (e.g. White and Case). Less noticeable is the expansion of Canadian firms. In June of this year, Lang Michener LLP became the first Canadian law firm registered to practice in Hong Kong via a partnership with local firm Angela Ho & Associates.

One of the benefits of integrating with a local Hong Kong firm is the potential upside offered by CEPA (Closer Economic Partnership Arrangement). This trade agreement now allows Hong Kong law firms deeper access to practice law in the mainland. The fact that very few firms have taken advantage of CEPA may suggest that

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both Hong Kong and foreign firms believe other entry modes to be as effective.

In Hong Kong, there has been a spate of activity including the merger between Mayer Brown and Johnson Stokes Master, as well as Reed Smith acquiring Richards Butler in 2007, a year after merging with Richards Butler' UK operation.

Whether a firm should set up a regional hub, say in Hong Kong and follow clients around a region or create alliances in various countries is subject to debate. Certainly, the costs of setting up independent offices in several locations can be resource depleting and the lack of people on the ground who can act responsively in certain countries can cause firms to lose clients who may feel other law firms are better positioned to meet their needs. However, various forms of alliances can be problematic and costly in their own right. A firm can look to join the many law alliances around the region such as Lex Mundi but often times these alliances are very mature and spaces for joining are few and far between. Problems in such alliances involve asymmetry in client referrals, differing objectives, and knowledge leakage.

If North American firms want to access inbound and outbound transactional work in places such as India or China, they have little choice but to form some sort of alliance if they want to offer

local law practice and expertise to their clients, since foreign firms still cannot practice local law in China or hire Chinese lawyers.

Over the past year the race to secure an arrangement with a top law firm in India has become a major priority. In fact, US firms are in danger of being shut out of the burgeoning

Indian market following a series of strategic alliances between some of the UK's top firms and local Indian leaders. Early this year Clifford Chance formed a relationship with Indian firm AZB & Partners, followed by both Lovells and Clyde & Co breaking into the market via formal alliances with Indian firms. Some commentators have observed that the majority of Indian lawyers feel a cultural affinity with the UK based on both the colonial past and the fact the Indian legal system is derived from the English legal system. So far, the US firms have been fairly invisible. Rather than form alliances, most US firms have attempted to work with a range of Indian firms.

Indonesia is another market that is closed to foreign firms but given its expected growth, it is still proving to be an attractive location for investment. Whilst many firms serve client needs in Indonesia from Hong Kong, US firms such as Baker & McKenzie have loose alliances with local firms.

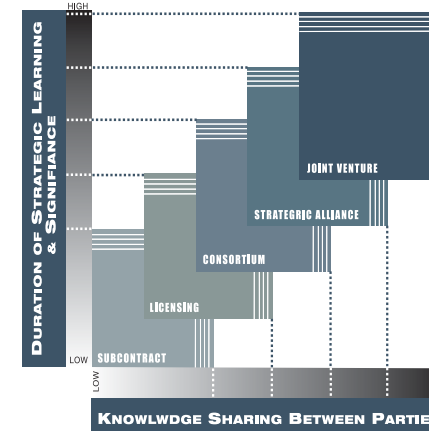
Whilst strategic alliances are very popular among law firms, they are not easy to develop.

Firstly, it is somewhat difficult to assess the quality of law firms in emerging markets. The problem arises since there is a lack of objective and reliable data upon which to accurately judge firms or the quality of the legal talent in any specific locale. In China there are over 12,500 law firms with

130,000 licensed Chinese lawyers. How many would be truly competitive on an international basis?

Secondly, a Bloomberg report states that there are only a handful of world-class law firms in India and they are being inundated with SA offers. How can the small or mid-sized firm hope to beat out their large counterparts in this area?

Thirdly, full integration in the case of a merger is very hard to achieve between partners of disparate size and profits per equity partner (PEP), not to mention the cultural issues involved.



**Fig.1 Collaboration Forms for the Law Firm**

(Source: Sawhney, R. (2009) *Marketing Professional Services in Asia*, Lexis Nexis Publishing, Singapore).

Figure 1 highlights various collaboration forms for law firms. We don't tend to see many consortiums or licensing agreements involving law firms, although according to the Wall Street Journal, US law firm McDermott, licensed its name to a Chinese law firm (Yuen Da) for a fee and presumably to claim it has an office on the ground in China.

Strategic alliances are the most common form of arrangement between law firms yet their use is surrounded by failure and disillusionment.

Research suggests up to 50% of alliances fall short. In an article published in the MIT Sloan

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Management Review (2008), Bettina Buchel highlights a number of minefields that can impair alliance performance. These include unclear partner roles, unequal sharing of risks and benefits, not being prepared for the inevitable crisis, and no formal exit mechanisms.

Similarly, Patricia Anslinger and Justin Jenk (consultants at Accenture) suggest six key factors to enhancing alliance success chances:

- (1) develop clear, common objectives and definition of success;
- (2) ensure proper alliance form;
- (3) determine appropriate governance model with clear decision-making;
- (4) anticipate the most likely conflicts;
- (5) plan for evolution; and
- (6) establish clear metrics to track and measure success.

What these factors suggest, and indeed what research shows, is that a marketing mind set is crucial to the outcome of an alliance. Being client and market focused must be part of your thinking especially considering recent research that demonstrates social capital is not a good indicator of firm performance from an internationalization perspective (that is, following your clients as the main basis of your decision does not produce optimal outcomes).

Another hurdle for North American firms seeking out alliances or joint ventures in emerging markets such as Asia is that of culture. National cultural characteristics can have a major impact on

alliance success because it is the individual interactions between the players that determine the quality of such alliances. For example, research conducted by Yadong Luo (Administrative Science Quarterly) shows that attachment between parties is impeded by cultural distance.

Unfortunately, the US and Canada are highly individualistic societies whereas most Asian societies are collectivist. This means that the different values given by each party in terms of relationship building and sharing of information is rooted

in varying perspectives. In other words, North American firms are likely to look at the alliance from a transaction basis (time and costs) whereas Asian firms are likely to look at it from a resource basis (building capability) perspective. This can cause fundamental conflicts as each party expects something different from the other.

If you assign people from either firm to regularly interact it might be worthwhile looking at choosing people who are from similar national cultural backgrounds. If the relationship is closer (joint venture, merger), then the firm leaders and their goals will have a major impact on the outcomes, and hence finding partners with compatible goals and beliefs becomes even more important.

Asia and other emerging economies are proving attractive destinations for law firms from North America but how you reach that destination has a major impact on the potential benefit and future viability of your firm's internationalization strategy.

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