

## INTRODUCTION

### THE INSTITUTIONAL SETTING

Within our national development plan, various government ministries will usually have evolved policies to deal with such matters as agricultural and industrial production, foreign exchange rates, taxation, tariffs, quotas and trade agreements, etc. These and similar policies have a more or less direct impact on foreign trade and on the country long-term sustainable national trade promotion programmes.

On the institutional level, many organizations besides government ministries are involved in one way or another with trade promotion. These include trade promotion boards and councils; standards and other regulatory bodies; banks and other financial institutions; associations of producers, importers and exporters; and chambers of commerce and industry. Ideally, these organizations, governmental and nongovernmental, should be complemented each other, and thereby creating an environment within which trade – domestic and international – will flourish and the importer and the exporter will receive the necessary trade support services.

Among the most essential of these institutions is the trade promotion organization (TPO). It is a department, branch or division of the Ministry of Commerce (MoC)<sup>1</sup>. Notwithstanding the form that it may take, the TPO serves as the focal point for the development of Cambodia's export promotion activities. Commercial representation is one of these activities.<sup>2</sup>

The core function of a TPO is usually a trade information center with detailed market access and product information that exporters need. Such structured information is periodically updated and must be supplemented by a more or less constant flow of related information from abroad. Moreover, once an accessible market has been identified, the exporter should receive individual support to achieve market penetration, in the form of continuing expert guidance from a source located in the market itself.<sup>3</sup>

Commercial representatives may be career trade officers who serve abroad for only one or two postings, or members of a rotational service who may expect to spend the greater part of their careers in other countries. They may or may not have undergone significant, programmed training. Experience indicates, nevertheless that the most successful TPOs are those that recognize this function as a highly specialized, professional one and plan their operations accordingly. They recruit and train the most qualified people available, deploy them in selected markets according to a well-formulated commercial strategy, and programme and manage their activities systematically within the framework of their national trade promotion programmes.

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<sup>1</sup> An alternative would be a semi-autonomous or a fully autonomous parastatal body, or even one partly or wholly funded by the private sector.

<sup>2</sup> In practice, because of the way a country's external trade services are shared, there are usually two bodies primarily concerned with commercial representation abroad: the ministry that is responsible for overall trade policy, to which the commercial representative in the field normally belongs or is seconded, and the TPO, with which the commercial representative generally deals direct on trade promotion matters.

<sup>3</sup> The responsibility for developing commercial relations and promoting exports, on a day-to-day basis and at the practical working level in foreign markets; increasingly falls on the country's official commercial representatives. They are the eyes and ears of both the TPO and the exporter in the market-place.

Nevertheless, the Royal Government of Cambodia (RGC) cannot afford to place trained, professional commercial representatives in all the potential markets for her products. In such circumstances, she must rely on other national representatives, such as diplomatic officers, to function as commercial representatives to the extent that their other duties allow.

**The Handbook and How to Use It:** This handbook is a modified version of ITC/Handbook for Official Trade Representative<sup>4</sup>. Design for a wide range of possible users and it is addressed to commercial representatives who have been or who are about to be posted abroad, possibly with little preparation. It is also meant for experienced officers who may find it useful as a reference. It is also for providing home-based officials who work with the commercial representative an effective insight into that side of trade operations and thus benefit their own work. Similarly, it may also enable diplomatic officials, who are occasionally called upon to do trade work, to find answers to some of their questions.

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<sup>4</sup> HANDBOOK FOR OFFICIAL TRADE REPRESENTATIVES, ITC, INTERNATIONAL TRADE CENTRE UNCTAD/GATT, GENEVA, Reprinted 1993.

## Chapter

# 1

## THE COMMERCIAL REPRESENTATIVE

### A Commercial Representation as a Profession

The time has long since arrived to recognize commercial representation as a profession *per se*, the successful exercise of which is positively correlated with careful initial selection of commercial representatives, level and content of their formal education and specialized training, the length and variety of their pertinent experience, and the quality of the support they receive from the TPO and/or the MoC in Phnom Penh.

It is impossible to over-emphasize the importance of successful commercial activity to a country and its people. Nearly, all developing countries economic development depends upon growth in export trade,<sup>5</sup> which in turn creates jobs and raises living standards. The increasing import requirements<sup>6</sup> which flow from development must somehow be financed, from foreign exchange receipts derived from export earnings and capital investment. Without dynamic expansion in exports the growth of a country's economy will almost certainly slacken.

“Your main objective as a commercial representative is obviously to do the best possible job of improving Cambodia's net export earnings, in the broadest meaning of that term.”

Whatever your title, be it trade commissioner, trade attaché or commercial secretary, you are likely to have all the diplomatic status your job requires. That status will enable you, even as it enables the traditional diplomat, to establish and to maintain relations with officials of the host country and of other countries' embassies/missions, up to the highest levels appropriate for your rank.

You will also be in more or less make daily contact with many sectors of the economy. In addition to the usual diplomatic circle, you will and must become familiar with the business and financial environments of your territory. You will have the opportunities for learning the

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<sup>5</sup> “Competing in the world market place.” One of the most popular, enduring misconceptions of practical men/women is that countries are in competition with each other in the same way that companies in the same business are in competition. The point is that international trade is not about competition, it is about mutually beneficial exchange. Even more fundamentally, it should be stressed that imports, not exports, are the purpose of trade. That is, what a country gains from trade is the ability to import things it wants. Exports are not the objective in and of themselves: the need to export is a burden that a country must bear because its imports suppliers are crass enough to demand payment. See P. Krugman, *Pop Internationalism: What Do Undergraduate Need to Know about Trade*, pp. 120 – 121 (MIT Press, Cambridge, MA, 1999).

<sup>6</sup> *Ibid.*

local language, adapting yourself to local customs, and generally feeling at home in the host country.

## **B** The Tasks of a Commercial Representative

Your work will be absorbing, complex, and challenging. It is not confined to one or a few product lines, commodities, market areas, types of buyer, marketing management skills, or functional specializations. You will have to acquire knowledge of many aspects of business activity. You must understand government laws, policies and regulations, both in Cambodia and in the host country. You must gain an insight into international trade practices (WTO, bilateral and multilateral trade agreements etc.) and the elements of commercial law.

Since you must from time-to-time actively seek out trade opportunities and identify markets for specific commodities, products, and services, you will need to understand the techniques of market research and the interrelationships between marketing channels. It is to your great advantage to have thorough knowledge of your products and their producers.

You must be able to identify past, present, and future trends and to assess barriers to trade affecting Cambodia. You will have to look into and keep abreast of such matters as international physical distribution (shipping services, freight rates), financing terms, and other aspects of trade facilitation. You must learn and familiar with export documentation and terminology, packaging, costing and pricing for export and product adaptation, and appreciate the importance of quality control.

You are most likely to have a role to play in trade policy formulation. Policy, comprising informed judgments taken at the highest levels of government, is the result of carefully evaluated inputs from innumerable sources of objectively analyzed information. As the person on the spot, you will be a primary source of this information as far as your territory is concerned. You will therefore be expected to contribute, through regular and ad hoc reports, to the evolution of our country's trade policies and export strategies, for which purpose you will need to know how to organize and to write such material.

Your success as a commercial representative will quite literally depend on your initiative and the energy and enthusiasm you bring to your myriad tasks. You should constantly think of new ways of placing our country's products in the market. Get away from your desk. Go out and talk to key people – the buyers and other decision-makers in the market-place. In trade promotion, your success is likely to be in inverse proportion to the amount of time you spend in your office.

Finally, in your professional dealings with others, honor all your commitments and never betray a confidence. You must consciously earn and maintain a reputation for absolute professional reliability and personal integrity.



## Chapter

# 2

## DIPLOMATIC PROTOCOL, REPRESENTATIONAL ACTIVITIES, AND THE PROBLEM OF LANGUAGE

### A

#### Diplomatic Protocol

In essence, protocol is a series of formalized procedures that vary from country to country. Your relations with officials in your mission will be determined by your country's established norms for persons of your rank and position. Your relations with members of other missions, local government officials, and members of the public will be primarily governed by local customs.

#### 1. Making Introductory Calls

The practice of introducing yourself on arrival by formal calls still applies in some countries. With the help of the protocol officer at your post, you should familiar yourself quickly on the local practice with respect to official calls and carry out the accepted formalities promptly after arrival. Formal calls are quick and effective means of establishing useful relations with your counterparts in other missions and with local officials. They are likely to be much more helpful when they know you on a personal, friendly basis.

#### 2. Precedence

Outside normal considerations of etiquette, precedence according to rank is probably the most rigorous form of protocol of which you need to be aware. It is relevant at all formal ceremonies and functions, in calling, and at hospitality events, especially in the matter of table seating. If you are a junior officer, one of the difficulties you will face in a major capital is the unyielding formality of the diplomatic hierarchy. One's diplomatic status determines one's operating and communicating level. There are probably hundreds of junior officials who can speak only to other junior officials or their equivalent in rank in the local government. The same constraint generally operates all the way up the line to the most senior people in diplomatic missions. This inflexible practice can severely inhibit some of your activities in some countries. To reach a certain individual in the local government or in another mission you may have to go through several other people. Even then, you may not achieve contact of the kind you need to attain your objective.

### B

#### Representational Activities

#### 1. Objectives

Representational activities are a major aspect of your public relations responsibilities and of your relations with people and organizations important for your work. Be prepared to host and to attend social and official functions, with the following objectives:

- 1.1. to establish, maintain, and improve your contacts with the government and business sectors of the post territory, with a view to obtaining information, advice, and assistance;
- 1.2. to project an image of Cambodia as a reliable exporter of quality commodities, goods and services, as a reliable trading partner, as an attractive country to visit, and as a secure, hospitable and profitable destination for foreign investment;
- 1.3. to exchange useful trade and other information and develop your knowledge and understanding of the local environment for the promotion of trade and the attainment of other official objectives; and
- 1.4. to introduce business and official visitors from home to useful trade contacts in your territory.

## **2. Types of Activity**

Cultivate working relationships with appropriate government officials, business people, and other useful contacts in your territory through association on both a professional and a personal level. There are a variety of ways of developing these associations, depending on the social norms of the territory. Plan your entertainment and other representational activities. The type and nature of entertainment vary from country to country, but generally take the form of receptions, cocktails, film showings, etc., luncheons, dinners, and informal entertainment at short notice. Careful attention in this regard must be paid to local customs, habits and sensitivities. Greeting cards should also be sent to important contacts, following local custom, and due attention paid to customary rituals important to people at the post territory.

## **3. Conflict of Interest**

The same general principles apply to any other arrangements you may make that could give rise to a charge of conflict of interest. Conflicts of interest are of too many to describe here. But in principle, you should not engage or appear to engage in any activity for your personal benefit that is inconsistent with your responsibilities as an accredited representative of the Royal Government of Cambodia.

Obviously, you should not participate in any activity that causes an excessive drain on your time and energy or which, by its nature, would reflect on the dignity or the standing of Cambodia's Foreign Service. Moreover, the terms of your accreditation to your host government would normally preclude your engaging in any activity that is not compatible with your status.

## **C Language**

Language is your primary means of acquiring and transmitting knowledge. As you are in the business of gathering and collecting commercial intelligence and communicating it to others, words, and hence language, are quite literally the tools of your trade. And as you will spend

much of your time abroad, you may as well recognize that you need to acquire some proficiency in one or more foreign languages.



# Chapter 3

## RELATIONS WITH OUR COUNTRY EXPORTING COMMUNITY

### A Foreword

In the eyes of Cambodian's exporters, you are the expert on how to trade within your territory and you will frequently be asked for commercial intelligent information. However, you should be more than merely an expert to be consulted as the occasion arises; you must also be an ever-active force, working constantly on behalf of Cambodia and her exporters in the market-place. "You are in the commercial intelligence business." In gathering information you must spread your net as widely as possible. Before sending information to its users, however, you must prune, edit, analyze, summarize, but never sanitize it. You should constantly ask and remind yourself the questions: "What is essential or useful?" and "Whose interests are likely to suffer if I fail to provide this information in a timely manner?"<sup>7</sup>

Reduced to its simplest terms, your role in export promotion may be described as follows:

- know our country's products/services: learn all you can about our country's actual and potential exports and keep this knowledge up to date;
- know your markets: learn all you can about the characteristics of your territory and keep this knowledge up to date; and
- know what is involved in bringing products and markets together.

### B Know Your Products/Services

You will be acquired knowledge of the goods and services our country has to offer in a number of ways. First, as arranged by the TPO or MoC, you should have been given a tour – if not, insist that you get one – of the industrial, agri/aqua-culture, agro-processing, and other economic sectors prior to your first posting abroad. Secondly, knowledge of our country's supplier/producer capabilities can be gained and kept up to date by means of regular supplier/producer surveys. The gathering and maintenance of such information database is the responsibility of the TPO and/or MoC, which should keep you informed of what is available. Your responsibility is to study the material provided in order to become an expert on what is available in our country for export, to the point that you can become a supply consultant to importers.

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<sup>7</sup> It should be remembered in the advent and proliferation of information technology and the internet, outdated news do more harm than no news.

A planned tour of the facilities of selected manufacturers and exporters representing a broad cross-section of our country's supply capability will enable you to:

- meet producers face to face, to learn of their production and marketing challenges and concerns;
- familiarize yourself at first hand with the goods and services our country has to offer; and
- lay a firm foundation for a growing future relationship of mutual trust and confidence with your exporters.

Halfway through your posting, it would be useful, resources permitting, for you to return home for visit and for briefing and debriefing sessions with the appropriate officials at the MoC and/or TPO. Of primary importance, however, would be the associated tour of the export sector which you could then make, to initiate and to renew acquaintances with business people, and to discuss with them their particular marketing concerns and challenges in your territory. Carry home with you adequate notes on the particular problems and trade opportunities you will be discussing with them. The same kind of tour should be arranged after completion of a posting abroad when you should debrief, both individually and in groups, business people, who are particularly interested in the markets for which you were formerly responsible. In addition, if you are to go on to another post, you should arrange a visit with the exporters to be briefed on their interests in the markets to which you will shortly be assigned.

The continuing development of this relationship should be one of your most important and never-ending tasks.

## C

### Know Your Markets

Export promotion covers four principal areas of activity. All demand thorough knowledge of the markets you are responsible for developing. These areas of activity are discussed below.

#### **1. Identifying Specific Trade Opportunities**

At the outset, you have to identify and to survey specific markets for our country's export commodities, goods, and services and to uncover trade opportunities. This means that you must constantly search for such opportunities, for trading partners, and for market information. You then have to interpret what you find to identify what is relevant to our country's export possibilities and useful for the traders and officials. Finally, you must, communicate such findings of commercial intelligence to relevant sectors/exporters as quickly as possible and in such a form as to enable them to act upon it.

#### **2. Identifying Trade Barriers**

You may find a market for a product, but this does not mean that our suppliers/exporters will automatically have unfettered access to that market. Thoroughly evaluate your information before rushing it indiscriminately to our exporters. High tariff may prevent entry; non-tariff barriers such as quotas, preferential arrangements, and quarantine restrictions, packaging specifications, and labeling requirements may eliminate or severely limit market prospect.

When such barriers exist, and especially if they appear to discriminate against our exporter's products vis-à-vis those of other countries, you may wish to initiate, through the TPO or MoC, a request that action be undertaken through diplomatic channels to negotiate fair and equitable treatment. You should always be alert to such possibilities and be prepared to intervene as necessary in this way.

### **3. Monitoring Other Factors That Influence Trade**

Even when access has been achieved, market entry has to be facilitated. Review frequently such matters as shipping services, freight rates, financial terms, and related subjects connected with local expectations or international practice. Also monitor, as closely as you can, the actions and strategies of the competitors. Much can be learned by observing how other deal with the challenges that you face.

### **4. Promoting Sales**

When you have an acceptable product with access to the market, you must take action to penetrate and capture that market to the best of your ability. You will have to devise the most appropriate marketing strategy to maximize product's acceptance in that market. You will have to exercise the initiative and to assist in such activities as selecting and participating in trade fairs; organizing trade displays and retail promotions; guiding our country's business visitors and trade missions; delivering speeches to interested groups; working the press corps and public relations; maintaining a flow of timely commercial intelligence; and helping local business people with their trading challenges and opportunities, so as to improve their commercial relations with our country.

## **D Know What Is Involved in Bringing Products and Markets Together**

To be truly capable of bringing products and markets (sellers and buyers) together, you must acquire a basic knowledge of a vast array of subjects and have instant access to the relevant documentation or information sources. You must, for example, understand:

- marketing as a process;
- the techniques of market research;
- marketing and distribution channels;
- the roles and functions of various kinds of agent;
- marketing communications;
- the uses of trade publicity;
- trade fairs and exhibitions;
- export/import documentation and terminology;
- documentary credits and collections;
- sales contracts and elements of commercial law;
- quality control and export/import standards;
- packaging requirements for both shipping and promotion in export/import markets; and
- costing and pricing for export/import.

If you are to succeed in your task of bringing products and markets together, you will have to recognize that no matter how enthusiastic and energetic you may be; the demands on your

time are likely to be greater than you are able to satisfy. This will be especially necessary at a smaller mission, where either you will be alone or will have the assistance of only a few officers to deal with the entire range of trade work.



**Keep a record of how you spend your time**

Your objectives should be practical. If you are starting in a new market area, you could begin by examining the range of goods and services available for export from our country. Consider carefully all significant products/services. Decide on priorities for research based on your best judgment and on any instructions/guidance you may have on their relative importance. The TPO or MoC is in the best position to do the basic research into these matters and should be able to provide you with suitable guidelines on the most promising product areas for you to investigate. Then examine market demand for each of these products by evaluating such factors as:

- consumption in your territory;
- volume of imports/exports;
- the nature and sources of foreign competition;
- the marketing and distribution channels for the product/service;
- growth trends in consumption in the host country;
- the likely effect best/worst case scenarios of anticipated developments;
- the prospect of stimulating demand; and
- the scope for a new or a differentiated product.

Next, analyze the main factors affecting the market for the product and the extent to which your actions may help. You may find challenges of market access and/or of distribution, or a need to stimulate demand by using selective promotional techniques.

This process will result in a short list of products which you can attempt to promote with a reasonable hope of success. Rank them again on the basis of the likelihood of success in your territory. Consider both the products themselves and the specific activities by which you intend to promote them. Forward planning is vital. Establish deadlines and targets. Draw up a timetable for meeting them. The need for such planning will be particularly obvious in connection with trade fairs and exhibitions, a subject considered later in this handbook.



## Chapter

# 4

## GETTING TO KNOW YOUR TERRITORY

Your ability to acquire in-depth knowledge of your market is of no value if you do not place this knowledge quickly in the hands of the exporters, who need it urgently, and of others who may be able to make use of it. This Chapter emphasizes the importance of developing personal contacts in your territory. Chapter 5 considers documentary sources of commercial intelligence. These, particularly in the form of a small and highly select commercial library in your office, are essential to providing you with the background you will need for any investigations you may undertake or report upon. Chapter 6 discusses commercial reporting in general. Chapter 7 contains many time- and energy-saving proposals on the preparation of multi-purpose reports. As the title of the chapter implies, these reports ought to be written in advance and reproduced in substantial copies, so that they will be available as and when needed, e.g., when you have a business visitor or a trade mission from home, or when you prepare your annual and/or ad hoc report.

Clearly, it will be essential for you to study your market, in a thorough, systematic way, as soon as possible after your arrival at the post. This is best done by conducting a basic country survey.<sup>8</sup>

### A The Basic Country Survey

This is perhaps the most important document for you to prepare or study. It will serve many vital purposes, not least as a basis for your work. It should sum up the economic and commercial information essential to those interested in developing trade relations with your territory. As a comprehensive background paper, it should contain, in concise and largely statistical form, current basic information on the economic aspects of the country or countries in your territory – information directly relevant to the trading interests of our export sector and the government.

If a country survey has been prepared by your predecessors<sup>9</sup>, make sure that it has been updated for your arrival. You will thereby acquire the results of your predecessors' research and the experience accumulated at the post. When the time approaches for your own departure, you should show the same consideration for your successor by leaving an updated country survey behind.

<sup>8</sup> Preferably prior to your departure for your post. Many countries reports could be obtained from international organizations such as: ITC, UNCTAD, WTO, WB, and IMF etc.

<sup>9</sup> *Ibid.*

If, on the other hand, a country survey has not been prepared, write one as soon as you can. This will serve as a:

- ready reference for information essential to your daily work;
- pre-written data section for briefs, providing part of the information required for the briefing papers you will have to put together for business visitors from home;
- guide for the country's officials responsible for developing trade and commercial relations with the host country to which you are accredited; and
- precise framework for your reports on changes and developments in your territory.

The check-list given in annex 1 indicates the matters you will have to review. Do not collect information for its own sake. You may find that many headings are superfluous and that you may have to introduce others that are not listed. Your sole basis for determining the content of your report should be the commercial purpose it is intended to serve. Keep your sentences clear and simple, and your paragraphs short and easy to read. Stick to main facts only. Simplify statistical tables and give sources and dates for all quoted material. Convert weights, measures and values to those used in Cambodia. Highlight trends. When you give trade statistics, indicate clearly whether they are classified under the Standard International Trade Classification, Brussels Tariff Nomenclature (for the Customs Co-operation Council Nomenclature) or other system.

A survey of this kind can never be entirely up to date because of lags in the availability of statistical and other information. Moreover, there are frequent changes in government policies, regulations, trading conditions, and general economic development. You will be reporting separately on such changes in any event. If you place a copy of all such reports with your master copy of the country survey you will find it easier to update the survey, which should be done at least once a year or whenever requested from Phnom Penh.

## **B** Special Contact

There are, of course, myriad reasons for developing trade contacts. Generally, your task will be to establish links with individuals who are in the best position to:

- provide you with vital commercial intelligence; and
- make, or to influence others to make, decisions that support your marketing objectives.

While you will always be open and friendly in your dealings with others and are strongly advised to spread your net of contacts as widely as possible, you are bound to develop a special relationship with a few individuals. You should establish special links with people who are particularly knowledgeable about all or specific aspects of the market. Such contacts can become invaluable unofficial advisers on all sorts of marketing problems. Even when they do not themselves possess the information you want, they will often be able either to obtain it, or to direct you to possible sources.

Close relations with at least one well-informed contact are particularly valuable in a small country in which actual buying policies and procedures may diverge widely from those officially promulgated.

## **C Sources of Information**

Depending on the post and the nature of your assignment, you should organize access to some or all of the following sources of information.

- ▶ All major buyers, influential potential buyers and users of our country's products. These include agents and importers, and major retail groups.
- ▶ Central bank.
- ▶ Private banking institutions, including development banks.
- ▶ Transport and insurance organizations.
- ▶ Customs brokers and freight forwarders.
- ▶ Consultants engaged in market research, advertising, and sales promotion.
- ▶ Chambers of commerce.
- ▶ Industrial associations.
- ▶ Importers' associations.
- ▶ The press, both specialized and general.
- ▶ Government ministries concerned with such matters as:
  - trade and industry;
  - banking and finance;
  - labors;
  - economic development;
  - energy;
  - government procurement;
  - agriculture; and
  - foreign affairs;
- ▶ Authorities responsible for:
  - quality control;
  - customs;
  - ports and harbors;
  - warehouses and transport;
  - patents and trade marks
  - standardization; and
  - commercial arbitration.

In brief, every individual, group, or agency, private or public, with any relationship to economic or commercial activities, either direct or indirect, is a possible official and business contact. Determine the specific spheres of activity of each target organization or company. Make sure that you thoroughly understand their terms of reference, their places in the local scheme of things. Find out who in each organization are important to you in a trade promotion sense. The most senior official, or the one with the most impressive title, is frequently not the person making the decisions that concern you.



### **Among the other valuable sources of information are:**

- ▶ representatives of the current exporters, if any;
- ▶ commercial representatives of other countries;
- ▶ business clubs and professional associations;

- tour operators, travel agents, and airline officials; and
- nationals of home country who form part of the local business community.

The relationship which you ought to establish with fellow nationals can be particularly effective. Make every effort continually to meet new people in every field of activity that may be relevant to your work. Try to become a member of business clubs and other professional bodies with interests related to yours. Maintain a business card file. This will be a valuable aid in establishing or maintaining contacts.



Keep a desk diary to record all commitments, such as appointments, meetings, speeches and social events, involvements in trade fairs, missions, tours, and similar activities. This diary can also be used as a simple “bring forward” system, as a reminder to call up a particular file on any given day.

## D

### Public Speaking

Most cities have clubs, associations, chambers of commerce and organized special interest groups, all with a continuing need for speakers at luncheon and dinner meetings. Many have an interest in international affairs and trade. Among their members are important figures in the community, the actual or future leaders in their respective fields, who are potential valuable contacts for you. Study such groups. Find out all you can about their activities, offer to address them on topics most likely to be of interest.

## E

### Entertainment



**Entertaining is an important way of developing contacts.**

Dinners at home for a select few can be effective in creating receptive attitudes to your views and aims, and greatly improve your prospects of obtaining insiders’ market intelligence and information on local developments and trends. Cocktail parties at home are an appropriate way to introduce a visiting mission to a wide range of local contacts, of getting to know people better quickly, and of reciprocating similar hospitality. Outside entertainment can take the form of business luncheons at suitable restaurants or clubs.



## Chapter

# 5

## COMMERCIAL INTELLIGENCE

In export promotion, you have four principal activities, each demanding a thorough knowledge of the markets for which you are responsible. These activities are:

- identifying specific trade opportunities;
- identifying trade barriers;
- monitoring other factors that influence trade; and
- promoting the sales of commodities, goods, and services.

To perform any of these tasks, you have to be able to:

- assess how particular products will sell, i.e. is there a market for them?
- convey precisely and clearly to the exporters your findings on the market prospects for their products; and
- advise them on what steps they should take to pursue any market opportunities that you have uncovered.

### A

#### What Is Market Intelligence?

Market intelligence comprises of gathering, collecting, monitoring, and analyzing commercial information on the market potential for, and marketing operations related to, given products, and the interpretation and dissemination of such information for the guidance of our exporters.

Developing market intelligence involves four processes:

- estimating market or sales potential in your territory for specific export products on the basis of research, which itself comprises;
- sourcing, evaluating, and interpreting relevant commercial data and marketing information (challenges of access, distribution channels, etc.);
- analyzing local and/or foreign competition, general market conditions and the position of exporters already in the market; and
- assessing the various possible methods of approach to marketing those products successfully in your territory.

You have a special relationship with our exporters. In addition to being their primary and most reliable source of commercial intelligence, you act as an intermediary between them and

the foreign buyer in your territory. You will need to have the necessary market intelligence if you are to play this role efficiently and effectively.

But you should do more than simply answer requests for marketing advice. Always take the initiative to seek out new opportunities for Cambodia's exporters.

## **B Basic Reference Material on CAMBODIA**

The basic reference material for your research will comprise trade and production statistics; industrial studies; directories of manufacturers and exporters; an economic year-book; and legislation or information on export inspection and certification, export licensing, foreign exchange control, and investment policies. Buyers' guides on export products and tourist literature will also help.

## **C Documentation on Your Territory**

Your primary source of commercial intelligence on your territory should be your personal contacts with knowledgeable individuals in your territory. Nevertheless, you must also have adequate documentation on your territory, as well as suitable material from Phnom Penh.

The incoming flow of published economic and commercial information must be both broad and current enough to enable you to detect new trends, to spot new opportunities, and to report on any developments of interest as they occur or as you are able to predict them. The information you need must be readily available to you, if you are to respond quickly to inquiries from home.

## **D Setting Up a Commercial Library**



A carefully planned, well-run, small, but select commercial library is the obvious solution. You will not be able to set it up overnight, nor will it operate without your supervision. It will evolve over time, as you learn what kinds of information you need and what sources are available to you. Throughout your posting take particular care to ensure that, however modest it may be, your library is kept up-to-date and useful.

### **1. Contents**

Your library should have official trade and production statistics, and basic information on customs tariffs, and import licensing and other regulations. You can obtain these from the relevant government organizations in your territory. You can acquire secondary data from industrial and technical associations, trade and financial papers and journals, and the publications of international organizations.<sup>10</sup> Catalogues of trade fairs held in your territory are most useful. Make every effort to acquire them.

#### **1.1. Customs Tariffs, and Other Laws and Regulations**

<sup>10</sup> ITC, UNCTAD, ESCAP, WTO, WB, and IMF etc.

It is not recommended that you try to maintain a full set of these. They are frequently so voluminous and complex that only a full-time specialist can interpret them with any degree of accuracy. Investigate other ways of obtaining the product classification and rates of duty (or other fiscal charges) applicable to individual products. Some countries have commercial publications that make interpretation easier for the non-expert. One common source of information is a customs broker or forwarding agent who will supply the required information, probably without charge, if it is likely to lead to future business with home country's exporters. Another source is the buyer who has long experience with Customs treatment of the goods/services in question.<sup>11</sup>

## **1.2. Import Control Measures**

Your commercial library should receive all official notices published by the government concerning foreign goods entering the host country, covering such topics as:

- 1.2.1. import licensing;
- 1.2.2. import quotas;
- 1.2.3. prohibited imports;
- 1.2.4. import/financial procurement;
- 1.2.5. other compulsory measures; and
- 1.2.6. preferential trading arrangements

This information appears in your host government's official gazette, journal or bulletin that formally announces all laws and regulations. The ministries/departments concerned (i.e. trade and/or finance) may issue monthly or quarterly periodicals that give a more detailed explanation of the nature of any new measures or changes announced. Have both types of documents in your library.

## **1.3. Food and Drug Regulations, Animal and Plant Health Controls, Regulations on Safety and Standards, and on Labeling and Marking**

Your office should receive all official publications covering these measures, many of which may be issued by the ministry/department of agriculture or ministry/department of health. As with Customs information, these may be complex and require the interpretation of experts. Annex 2 "Classification of Information on Trade Control Measures", is a check-list of subjects that maybe covered by state, provincial, regional, or local regulations

## **1.4. Trade, Industrial and Other Economic Statistics**

You can subscribe to these through the government statistical office. Be selective, as it will often be possible to consult certain types of statistics at source<sup>12</sup> or in public libraries or institution for free and/or minimal costs.

## **1.5. Official Publications by Other than Central Governments**

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<sup>11</sup> Nevertheless, the only up-to-date and authoritative source of such information is the Customs administration itself. However, you must remember that final rulings are made only when the goods reach the port of entry.

<sup>12</sup> The internet is the best source for some of these publications/materials.

State, provincial or regional governments often have their own laws and regulations affecting imports, particularly as regards health, safety and other consumer protection measures. Their published statistics may also be useful for market research.

### **1.6. The Press**

The following are among the publications you should consult regularly.

- 1.6.1. Daily press. A leading national newspaper and a major national business newspaper or, alternatively, an international publication, such as the New York Times, Wall Street Journal, and Financial Times of London etc.
- 1.6.2. Weekly press. A leading local economic/business magazine, if available, and/or an international weekly newspaper such as The Economist.
- 1.6.3. Monthly or quarterly periodicals specializing in subjects such as:
  - 1.6.3.1. trade;
  - 1.6.3.2. marketing;
  - 1.6.3.3. commodities;
  - 1.6.3.4. agriculture;
  - 1.6.3.5. transport, shipping;
  - 1.6.3.6. capital projects;
  - 1.6.3.7. banking;
  - 1.6.3.8. travel; and
  - 1.6.3.9. consumer tastes, food, fashions, and households.

### **1.7. Trade/Business Directories**

These are specialized directories that may be available in your territory, listing companies or organizations by sector such as:

- 1.7.1. manufacturing in general;
- 1.7.2. food producers/agricultural industry;
- 1.7.3. clothing/fashion;
- 1.7.4. transportation/shipping;
- 1.7.5. banking/finance;
- 1.7.6. importers;
- 1.7.7. wholesalers;
- 1.7.8. distributors;
- 1.7.9. commission agents;
- 1.7.10. retailers, department stores, and supermarkets;
- 1.7.11. construction/contractors;
- 1.7.12. publications/advertising; and
- 1.7.13. trade fairs/exhibitions.

### **1.8. Institutional or Business Association Publications**

Your office may also subscribe to the annual or other publications of selected professional /research institutions or business, associations, chambers of commerce, etc.

### **1.9. Company/Professional Publications**

Most companies will provide annual reports and published bulletins or newsletters on request.

#### **1.10. Exporters' Register**

Among the most important sources of information from Phnom Penh is the official register of exporters, if any, supplemented by product catalogues issued by various enterprises. The very first thing you must know, before you can sell anything, is what you have to sell – what the product is, who produces it, how much of it is available for export, and when.

It should be a first priority of the MoC or TPO to gather this supply information to send it to you as soon as possible, and to keep it up to date. This will enable you to know at all times what is available, to refer trade inquiries direct to registered exporters, and to submit their offers ahead of their competitors. In international trade, it is usually the first acceptable offer received that wins the business.

If Phnom Penh has an exporters' register, make sure that your office has it and receives regular updates to it. Make full use of this register, in responding to trade inquiries from home and within your territory, and in undertaking product-specific promotional activities.

#### **1.11. Index of Local Agents/Representatives of Cambodian's Firms**

This index should help you quickly to establish contact between your potential exporters at home and possible agents or representatives in your territory.

#### **1.12. Business Directory, Importers' Lists and Exporters' Lists**

Set up and maintain, on a product-by-product basis, lists of direct importers and exporters in your territory to be supplied on request to your exporters and importers at home. Maintain these lists alphabetically by product. The lists should concentrate on products for which Cambodia has a demonstrated capacity to export or a clear need to import. Establish the lists on the basis of direct inquiries from importers and exporters as well as information obtained from trade directories, chambers of commerce, trade associations, personal contacts, etc. Amend and expand them, as needed, on an ad hoc basis. Make these lists as specific as you can with reference to the items covered. To the extent possible, subdivide them according to categories of importers, e.g., wholesalers, department stores, and retailers, etc. Provide a consolidated copy of your lists to the MoC or TPO for forwarding to regional offices, if any, concerned with the product lines in question. Supply revised copies when appropriate, but not less frequently than once a year and if your territory covers several countries<sup>13</sup>, prepare separate lists for each country.

#### **1.13. Contact Register**

Maintain a register of useful professional and social contacts. Base your contact register on a compilation of business cards, and organize it alphabetically. Jot down pertinent

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<sup>13</sup> Such as the United States of America, European Union, the Caribbean, and Latin America.

information on each contact on the back of the business card, as an aid to memory. Maintain a separate contact register for each country in your territory.

#### **1.14. Other Company Information**

File catalogues, annual reports, price lists and other material on the goods or services of a company or organization, as distinct from a commodity or industry in general, alphabetically by name of firm or organization. For ease of reference, separate those originating from home from those obtained locally. Material of this type should be purged whenever superseded or when a few years old. Retain one or two copies of catalogues or product pamphlets for reference purposes. Distribute the others to potential agents or buyers or otherwise put them to the use for which they were intended as soon as possible after receipt. An important point – know your collection. Get a “feel” for each publication that arrives by taking a few moments to read the introductory material and briefly to scan it. You will thereby know what is on the shelf and where to find the information you need.

### **2. Library Control System**

Basic documentation must be readily accessible. Periodicals, trade journals and some of the complimentary publications you receive may be of value, but if they are numerous, they can create handling problems. Some should be discarded on receipt; some from Phnom Penh may be suitable for display purposes in the reception/waiting area until they are replaced by later editions; some will be required for clipping and others for retention for a specific period for reference purposes.



An elaborate recording and storage system is rarely necessary. If the collection is sizeable, however, have an index of the library contents prepared. As publications of the type suggested are your main working tools, do not keep them in the reception area. Arrange them on open shelving, separated by country and by commodity. Remember that outdated information can be dangerous. Few publications have further use after replacement by later editions. Some books and studies have extended or permanent reference value, but most date rather rapidly (estimated at up to 25 percent annually), and should be discarded. Retain statistical material; however, as the preparation of certain reports, market surveys in particular, require statistical analysis over a number of years.

#### **E**

#### **Non-Documentary Information**

There are other means of gaining access to commercial information which may not be “documentary” in the sense just discussed. Your primary and by far most important sources of non-documentary information are your personal contacts, and in particular your special contacts.

#### **F**

#### **Miscellaneous Information Records/Files**

It is important to classify and file useful information that you acquire in the course of your daily contacts and research. Examples are unpublished reports, correspondence, and clippings from newspapers or periodicals.

## **G** Import Promotion Offices as Sources of Information

Some 25 countries, including most of the industrialized ones, maintain import promotion offices that provide marketing assistance to exporters in developing and least developing countries. The nature and extent of this assistance vary from one organization to the other but in most cases include:

- advice to the newly arrived commercial representative on useful official and institutional contacts;
- provision of statistical information on the country's markets; information on import regulations and procedures, lists of importers, distributors and agents, and information on, and assistance in participating in, trade fairs;
- participation in marketing seminars specifically organized for commercial representatives of developing countries; and
- arranging business contacts and tours.

International Trade Centre (ITC) issues an annual directory of import promotion offices<sup>14</sup> which is likely to be found in the library at the MoC or TPO. In any event, the existence of such an office in your post territory will be made known to you through your first contacts with government officials. Make it a point to call on the import promotion office as early as possible and to familiarize yourself with the services it can put at your disposal.

## **H** Computerized Foreign Trade Data

ITC provides trade ministries or TPOs of developing and least developing countries with computerized foreign trade data with a view to assisting them in carrying out research on world markets and in formulating national export promotion strategies and priorities. These strategies and priorities are the framework within which you should be operating abroad. You should seek a briefing from the MoC or TPO on the extent to which it, or other institutions in Phnom Penh, can draw upon the computerized data available through ITC.



<sup>14</sup> [Import Promotion Offices: A Directory of Import Promotion Offices and Similar Organizations That Provide Marketing Assistance to Exporters in Developing Countries.](#)

## Chapter

# 6

## COMMERCIAL REPORTING

Commercial reporting is the culmination of your market-intelligence gathering activities. Your task now is to transmit that intelligence to its potential users. Commercial reporting is of two kinds:

- the first covers reports that you initiate, unasked, on such subjects as new market opportunities and changes in the conditions for our exporters' access to the market. They include basic country reports, market reviews, and other pre-written, multi-purpose reports;<sup>15</sup> and
- the second refers to reports written in response to trade inquiries from the TPO and the exporting community. Trade inquiries from home are examined in chapter 16. Commercial reporting does not cover the annual report and annual work programme, which are prepared for administrative purposes.

### A

#### Target Audience

In general, you will be expected to provide all government ministries and parastatal organizations in Phnom Penh that require commercial intelligence with up-to-date background information, to enable them both to follow trends and to consider the impact of specific developments on Cambodia's trade position and policies. You are likely to have been supplied with a list of reports to be prepared on a regular basis, for specific target audiences, according to a defined timetable. If not, you may wish to develop such a list to assist you in managing demands on your time. The MoC or TPO will wish to have any information that will help existing exporters find solutions to their problems or encourage new exporters to enter the market. The exporters are, of course, your primary target audience. Deal with them to the extent permitted by procedures.

### B

#### Basis Reports

Systematically report basic information on, or affecting, key sectors of the Cambodia's foreign trade. By furnishing this basic information, you:

- help our country in the formulation of its trade development strategies and in the provision of services to the exporting enterprises; and
- encourage enterprises to investigate markets that offer favorable prospects and to do so on a well-informed basis.

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<sup>15</sup> These labour-saving devices are examined in the next chapter.



This work is vital to the design and the realization of our country's export promotion plans. It is also a labour-saving device for you. When you receive a request from the TPO or an exporter for a particular piece of market information, or for a report on a marketing problem, you may find that you have already done most of the research, and need only update what you have on hand by making one or two telephone calls and/or surf the internet for the latest information to be incorporated. Incorporate market reporting of this kind into your annual work programme.

## C

### Basic Guidelines

Commercial reporting can be extremely time-consuming. There are an enormous number of areas on which you could report. Do not be led astray into reporting at the expense of your efforts to promote the export trade.

In planning your reporting activities, constantly ask yourself:

- who are the main users of market intelligence?
- what types of intelligence does each target audience need?
- what is really useful and what is not?
- who are interests or what interests are likely to suffer if you fail to provide a particular item of information? and
- what direct contribution will this report make to an essential decision or a desirable action?

Ask yourself these questions before you undertake any report in response to an inquiry as well as when reporting on your own initiative. Your main objective being to promote exports, how much of your time can you afford to devote to reporting instead of more direct promotional activities? This difficult question should be considered carefully, taking several factors into account, including the following:

- your position at the post and the extent to which some of your colleagues may have been charged with economic and commercial reporting; and
- the nature of our country's exporting community and its prospects. If our country has a substantial, experienced export community operating in your territory, you might decide to report on items of general relevance rather than on items of use only to individual firms. However, if you have identified a small number of products that have substantial export prospects in your territory and decided to promote them actively, your reporting would emphasize information supporting specific promotional efforts.

To summarize, report on any matter that is likely to have a significant effect on our country's commercial interests. Be alert to all political and policy changes in your territory and use your best judgment to decide what is pertinent to Cambodia's commercial strategies and its export trade.

## D

### Urgent Reporting

There are many circumstances in which urgent reporting are vital to our country's interests related to economic and trade. You must obviously report immediately any action or anticipated action that threatens to prevent or limit the access of any of our country's export products to the market under your purview. Adverse changes in the political climate, labor disputes affecting transport, new import restrictions, extensive tariff revisions, and substantial variations in exchange rates, and any of a vast array of other developments should be reported immediately.



**“Always Treat New Trade Opportunities as Urgent.”**

## **E Major Export Inquiries**

As the services that you provide become more familiar to, and appreciated by, your target audiences, demand for these services will grow. You will inevitably receive requests for assistance which you cannot answer without extensive desk and field research into an area which you have not examined in an earlier study. If you judge that responding to the request would seriously disrupt your work programme, you may consider one of the following actions:

- send an interim reply to the inquirer, explaining the nature and magnitude of the research required and why you cannot report before a fixed future date;
- propose to your inquirer that the study be undertaken immediately by one of three or four reputable marketing consultants, at his/her expense; and
- notify the MoC or TPO and ask that it take up the matter with the inquirer with a view to finding a solution to his/her problem. If you are then required to prepare the report, the MoC or TPO should decide, in consultation with you, on any additional resources that should be provided to your post and on any modifications to your work programme.



**In summary, the basic guidelines for your commercial reporting are:**

- identify your target audiences;
- decide what their information needs are;
- be selective and concentrate on reporting that will help to increase exports;
- supply fresh information on market developments through ad hoc and periodic reports;
- report urgently when justified; and
- maintain a balance between reporting and other export promotion activities.

## **F Report Writing in General**

Report sparingly. Do not flood the MoC or TPO or the various enterprises in Phnom Penh with a mass of information for which they have no real use. Remember that your report will be one among many and that if every commercial representative were to send home

everything of conceivable interest to the TPO, the MoC and/or the exporting enterprises, the system would almost certainly be overloaded to the point of breakdown.

Therefore:

- report only if this is necessary or genuinely useful;
- if you must report, decide what you want to say, and say it as clearly, simply and briefly as you can; and
- prepare thoroughly, and your report will almost write itself.



## Chapter

# 7

## INDIVIDUAL BUSINESS VISITOR

If the prospects for the sale of their products appear to be good, both you and the MoC or TPO at home should encourage individual business executives to visit the market. A personal visit can accomplish much more than even the most frequent and clear correspondence. Misunderstandings can be avoided or clarified. When a business visitor is sitting in front of you, it's your duty to discuss problems/challenges in depth, review the pros and cons of various marketing techniques, assess the situation as a whole, and probably arrive at a better and more precise course of action. Your business visitor is the final and the most vital link in the chain of effort that leads to a successful sale. He/she is the expert on the product, and the only individual able to quote firm prices, to discuss product modifications, and to sign an agency agreement or a sales contract. Your close co-operation, advice and assistance at all stages, from initial planning to post-visit follow-up, are essential if the business visitor is to succeed in reaching your joint objective – the making of actual sales, the earning of foreign exchange, and the creation of jobs back home.

### A

#### Preparing for a Visit

A large part of your time might be taken up by preparations for forthcoming visits of individual business people from our country. In this context, a “business person”<sup>16</sup> is not necessarily a representative of a commercial or industrial company. When you receive notice of such a visit, you have a number of tasks to attend to. These include:



#### These include:

- ▶ putting together a visitor's brief, to include, as appropriate: a selection of pre-written, multi-purpose reports; a brief tailored to the visitor's commercial objectives; and an itinerary; and
- ▶ planning your own time around this itinerary in such a way as to free yourself to accompany the visitor at least to the most important appointments, if he/she agrees to your doing this.

### 1. Notification from Home

<sup>16</sup> The term as used here also covers individuals who may be acting on behalf of a commodity marketing board, a state trading corporation, an industrial association, a bank, or any other organization trying to market goods or services in your territory.

You must be informed well in advance on the precise purpose of the visit and the kind of assistance the visitor desires. This should be laid out in detail in the notification you receive from the visitor or from the MoC or TPO in Phnom Penh. If the visitor is seeking buyers or an agent, he/she should send you illustrated product brochures and current CIF price lists,<sup>17</sup> to enable you to attract interest in meeting him/her. The main thing is to know enough about the company and the product to enable you to select the buyers, agents, or other contacts to be visited and to answer intelligently any questions they may ask you about the visitor, the company or the product.

If the visitor has an unusual product, he/she should tell you in detail how the product is distributed and used at home or in other countries. Complete technical specifications should be supplied in appropriate cases.

## 2. Your Initial Report

If sufficient information on the visitor and the product has been provided, you should be able to send certain elementary data immediately in reply.



- 2.1. Import restrictions, such as quotas and other non-tariff barriers.
- 2.2. Tariff advantages or disadvantages vis-à-vis other supplying countries.
- 2.3. Statistics on imports over a period of 3-5 years, compared with local production, if any.
- 2.4. The general acceptability or utilization of this type of product in the market.
- 2.5. Any other significant information that is readily available to you.

You may already have much of this information in the form of previously prepared market survey. If not you should be able to obtain it readily from reference publications, supplemented by a few telephone calls and/or searching the internet.

## 3. Your Full Report

If your initial investigation reveals more promising prospects, try to provide the visitor with a fuller report<sup>18</sup> before he/she leaves home. In any event, have it ready for him/her on arrival. In addition to the information in your initial report, provide the following.

- 3.1. Names of main competing brands, including those of local manufacture, their agents, and the reasons for their dominant position (supply copies of their publicity literature and provide information on prices, if possible).
- 3.2. Information on pattern of distribution and sales, e.g., marketing regions, main outlets or users, and mark-ups at each level of distribution.
- 3.3. Names and background of important buying organizations or industries, potential agents, or distributors.

<sup>17</sup> Warn your visitor to have ready both FOB (free on board) and CIF prices in the local currency or in an international currency commonly used in the trade. Tell the visitor to be prepared to discuss discounts and price ranges related to quality and/or quantity. He/she should bring or send ahead (allowing ample time for you to clear them through Customs) an adequate supply of brochures and samples, if appropriate.

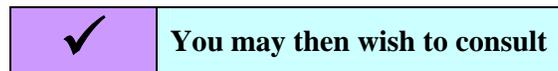
<sup>18</sup> A copy of the visitor's itinerary should be appended to your report.

#### 4. The Itinerary

The length and complexity of an itinerary will naturally vary enormously with the exporter's objectives, the product, and the characteristics of the market for that product. The longer and the more complex the itinerary, the more advance notice of the visit you will need.<sup>19</sup> Buyers and other contacts may not be willing to make appointments or simply may not be available at short notice.

#### 5. Identification of Contacts

In setting up an itinerary, your first challenge is to determine whom your visitor should see. In carrying out your basic county survey after arrival at your post, you established a wide range of contacts who will be of help to you now. Nevertheless, there are inevitable occasions, especially when new product is concerned, when you will have to seek out new sources of information. The more highly developed the market, i.e. in an industrialized country, the more highly specialized your buyers and agents are likely to be. Moreover, every visitor is different.



- 5.1. Contacts in the trade who may not themselves be interested but who can guide you to others who may be.
- 5.2. Trade fair and exhibition catalogues.
- 5.3. Other directories, associations, etc.

Look at priorities, coverage, and sequence of calls. For example, if the visitor is seeking a representative for a product for which a government department or a public authority is the main end-user, he/she should, perhaps, working from the top down, call first on that government department. It could possibly provide information that will help him/her to select an agent from among the potential agents to be interviewed later on. In other circumstances it could be better, working from the bottom up, to talk first with retailers and to study the marketing channels before working back, through wholesalers or other distributors, to potential agents.

#### 6. Schedule of Appointments

Once you have identified your prospective contacts, set up a tentative appointment schedule. Then call each individual. Identify yourself, explain the purpose of your call, and ask if the suggested appointment date and time would be satisfactory. If he/she is not the appropriate person in the organization, ask who would be more suitable. If more information is required, offer to send, or better still, personally to take full details to your contact to enable him/her to decide whether to receive your visitor.

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<sup>19</sup> You should ascertain clearly from our visitor, either direct or through the MoC or TPO in Phnom Penh, exactly what you are expected to do concerning hotel bookings, internal transportation and other arrangements within your territory. Ask for the exact date, time, and place of arrival, point of last departure, flight number, etc. and intended length of stay in each location in your territory. Establish the amount of time the visitor has available for a programme.

The first appointments should be tentative. Our visitor may have to stay in another country longer than anticipated. Airline schedules may change. He/she may not wish to call on some of the contacts you propose.

## **B** Need for Personal Service

Your most important concern is to build a relationship of mutual trust and confidence with the business visitor therefore.

- Take particular care in setting up the itinerary and try to be an anchor of familiarity in an unfamiliar environment.
- Have the brief ready and try to meet our visitor when he/she arrives.
- Try to accompany him/her on business appointments. By working closely with our visitor in this way, you will become better equipped to perform your own job.
- If it is not possible for you to accompany our visitor on calls, keep in touch with him/her during the visit. Offer the services of your office and staff to meet any requirements that you are able to handle.
- Allocate time to talk with our visitor before departure. Review the ground covered, the problems encountered, and the results he/she has achieved or failed to achieve. Discuss any follow-up that he/she may wish you to undertake on his/her behalf. Persuade him/her to send to you a copy of any business correspondence with anyone in the market with a comment on how you can contribute to the attainment of his/her objectives.



## Chapter

# 8

## TRADE MISSIONS

A trade mission may be a group concerned with market exploration or development, with surveying prospects and methods of conducting business, with appointing agents and promoting or selling goods and services. It may aim to create goodwill, or to purchase essential imports, or to attract foreign investment. It may seek to negotiate access for specific commodities or a wide-ranging trade agreement, although these negotiations are usually government-to-government matters and are not considered here. Trade missions also vary in their composition. They may consist entirely of government officials, or primarily of traders from the private sector, or representatives of state trading organizations. They may be heterogeneous, with representatives from sectors as diverse as agro-processing, horticulture, and tourism.

### **A** Advantages of Trade Missions Over Visits by Individual Businessmen

A trade mission can undertake many of the tasks performed by the commercial representative or the individual business visitor, but often more effectively. Such a mission can; collectively, bring far more work-hours, greater breadth of experience, and more technical expertise to the same investigation than a single individual. A good mission can make a great promotional impact on the market. A mission has news value and can be used to generate trade publicity, focusing attention on our country as a supplier and attracting buyers who would otherwise be hard to identify. A mission can gain access to high-level business and government officials whom the individual visitor might find difficult to reach. Finally, a successful and properly publicized mission can contribute to raising the level of general export consciousness at home.

Nevertheless, as missions can be very costly, you should always consider the advantages of other activities when called upon to recommend whether a mission should be carried out. Participation in an appropriate trade fair or the organization of a solo exhibition may be more effective.

### **B** Types of Mission

The basic purpose of a trade mission is to lay the foundation on which to build future business. There are, nevertheless, various types of trade mission, each suited to achieving somewhat different objectives. These are:

- Missions charged with undertaking a country survey. Such missions would comprise individuals capable of exploring and reporting to interested agencies at home on relevant facets of the market for a wide range of products;
- Missions for the purpose of conducting an industrial survey. When there appears to be a potential for initiating or expanding export sales of a product or range of products in your territory, this type of mission may determine how that potential can best be translated into exports. It could not only estimate the actual size of the market, but also study prevailing distribution channels, promotional techniques, and pricing. Clarify what product modifications might be necessary; and obtain market information on other aspects.
- Sales mission. It might appear that good sales results could be obtained for a particular product or a number of unrelated products if exporters went on a sales trip abroad. If the proper groundwork has been prepared, sales missions would not only realize immediate sales but also lay the foundation for continuing business in the future.

## C

### Proposing Missions

When asked to propose missions, you should consider the following matters.

- Supply – actual or potential availability of the products concerned which should be in sufficient quantity to service any demand a mission is likely to stimulate.
- The interest of the exporters concerned in expanding their markets.
- The existence of regular transport services to the market or of reasonable prospects for establishing such services.
- Whether the products concerned have an established export performance on markets that do not offer them obvious comparative advantages.
- The existence of evidence that market prospects are sufficient to justify the cost and inconvenience of mounting a mission.
- The absence of existing or impending restrictions to market access.
- The size of current imports, their sources, and their rate of growth.
- Local production capacity and plans for expansion.
- The relevance of special trading relationships to market prospects for your products.
- The size and administration of import quotas and the scope for unlicensed imports.
- Comparative tariff advantages or disadvantages vis-à-vis other supplying countries.
- The possibility of exclusion because of regulations on standards, quarantine, etc.
- The reaction of importers and distributors to new sources of supply.

If the general market situation is favorable, it should be left to the mission itself to determine the finer points of pricing, packaging, promotional techniques, etc., which could make the difference between successful marketing and failure.



#### Your proposal should cover.

- The product range with which the mission should be concerned and the results of your market study.
- The most appropriate way of approaching the market.

- Suggested composition and size of the mission and qualifications of mission members, having regard to purpose and products.

Allow for lengthy preparations – three to six months of planning and organization are normal for a substantial mission. Policy and budgeting decisions have to be taken, both by the sponsoring authority and by the prospective participating organizations.

## **D** Budget

You should provide Phnom Penh with an estimate of what the mission would cost in your territory.



**The estimate should cover the following items.**

- Internal travel.
- Accommodation and meals.
- Receptions, invitations, and incidental hospitality.
- Publicity and advertising expenses.

## **E** Servicing a Trade Mission

The paragraphs below describe the most important activities that you will have to undertake when servicing a mission.

### **1. Consultation with Host Government**

In many countries it is customary to seek the host government approval of the visit, and assurances should be received that it is favorably disposed towards the visit.<sup>20</sup>

### **2. Looking for Contacts**

A mission should never depend entirely on the good offices of the host government, banks, associations or other bodies, however well informed or helpful they are. Study prospective advisers, partners or buyers, as the case may be, and decide which of them would be of prime interest to each member of the mission. For selling mission, contacts should include importers, agents, major distributors and end-users, as well as industrial and trade associations. In the case of a survey missions, contacts should be restricted to leaders in their respective fields, the best sources of information for a market investigation.

### **3. Market Information**

Start to prepare briefs for each visitor as soon as you are advised of their names and interests. The contents of the briefs are described under section 8 below.

### **4. Calls**

<sup>20</sup> The approach may be made by the authorities in Phnom Penh or through our ambassador. This should be done before any public announcement is made concerning the mission, either at home or abroad.

The mission leader will normally be present at courtesy and formal calls, interviews, press conferences, and meetings with major associations or groups.

Do not make appointments for the mission leader without his/her agreement, and give him/her a careful briefing before each appointment. See to it that outlines of speeches for appropriate occasions are prepared in advance, with due regard to the occasion and audience.

## **5. Publicity**

Advance publicity aimed at specific sectors is most valuable, particularly for selling missions. It can bring the mission to the notice of the appropriate commercial community. If importers form part of the mission, publicity is likely to arouse even wider interest.

At the minimum (unless publicity has been ruled out altogether), you should issue a series of press releases about the mission. The initial releases should cover the nature and aims of the mission, the dates, brief details on the leader and the products, and an invitation to obtain more information (and appointments) through your office. A short comment on trade between the two countries and on any significant or unusual aspects of the proposed work or composition of the mission may also be appropriate.

Give full details to chambers of commerce and industry and to trade and importers' associations in time to enable them to circularize their members before the mission arrives. The sponsoring agency should supply publicity material. The most important item is a trade mission pamphlet. This should contain a brief introduction on the aims of the mission, and, for each member, his/her name, title, photograph, the name and address of his/her organization, a description of the products he/she is interested in selling or buying, and a brief description of the sponsoring agency. This visual identification of the mission is of value to business people, officials and representatives of publicity media who will have direct contact with the group and with its individual members.<sup>21</sup>

## **6. Hospitality**

While one could hold a reception towards the end of the visit to acknowledge assistance and courtesies, it is more usual to arrange this within the first few days of arrival. The real value of a reception is that it provides an occasion for members to meet the widest possible range of potentially interesting business people and officials at the earliest possible stage. Invite those with whom appointments have been made for mission members, and important people in institutions, associations and government with whom contact is intended or from whom advice or assistance may be needed.

## **7. Invitation Kits**

For a sales mission, these people should be selected on the basis of their having considered the mission's catalogues and price lists and having expressed interest in discussing the possibility of buying, or acting as agents for, the products concerned. Distribute invitations to

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<sup>21</sup> Use any material you receive from home as effectively as you can. For example, the visit of a mission can be the occasion for a newspaper supplement or magazine article, based at least in part on material about the mission. If your office puts out an information circular, it could issue a special edition based on the mission and featuring related trade and industrial information.

the official reception, the mission brochures (which should be available to every intended contact), and any other publicity material at the same time.

## 8. Briefing Material

	<b>All papers for the mission should be made available to members at their hotel on arrival. A personalized folder for each member should contain the following items.</b>
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### 8.1. The Mission Programme

The times and dates of all important functions, and optional events. The first briefing session, press conferences and the official reception, and any private functions or events for which you or others have extended invitations.

### 8.2. Market Review or Trade Digest

### 8.3. Specific Brief

If a mission member is seeking buyers or an agent, you may need illustrated product brochures and current CIF/FOB price lists in order to attract interest in a meeting. For an unusual product, information on its uses and distribution at home and in other countries may provide a useful starting point.

### 8.4. Schedule of Appointments – indicate those invited to the official reception.

### 8.5. Invitation List for the Official Reception – indicate those who have accepted to date.

### 8.6. Other Papers

- 8.6.1. Notes on the functions and relevance to the mission of particular institutions, associations, chambers and government departments, and the office holders or officials with whom the mission will be in contact.
- 8.6.2. Notes on the structure, composition, ownership and production of local industries.
- 8.6.3. Credit or status reports on firms to be visited.

## 9. Personal Briefing

Arrange for the briefing to be held as soon as possible after arrival. Embassy staff member should give a short talk on the host country, with particular reference to the effect of political policies on development and trade trends and alignments, and on important local customs and practices. The handling of trade inquiries that are of no particular interest to the mission should be clarified at the outset.

## 10. Debriefing

Allocate time before the mission's departure for a debriefing session at which each member should outline the results of his/her efforts, his/her views on organizational shortcomings,

his/her suggestions on the conduct of future missions, proposed follow-up action and how your office might assist in this.

### **11. Post-Mission Report**

To ensure follow-up, submit to the MoC or TPO a report on the composition, organization, operation and results of the mission. The record of debriefing proceedings should be particularly helpful in forming your conclusions and recommendations. Emphasize the nature of any coordinated effort that the RGC and your office should undertake to consolidate the achievements of the visit.

### **12. Courtesy Correspondence**

Agreement should be reached with the leader as to who should be responsible for sending out letters of appreciation to those who have assisted the mission. As your office has a continuing interest in maintaining the best possible relationship with all of the mission's contacts, you have every reason to write such letters on your own account. The mission, however, has a similar responsibility.



## Chapter

# 9

## TRADE INQUIRIES

### A Types of Inquiries

Inquiries on specific goods and services are of two kinds:

- inquiries from the local market covering possible opportunities from our country's exports; and
- inquiries from the suppliers at home concerning markets for their products.

### B Local Trade Inquiries

#### 1. Trade Opportunities

Perhaps the most important part of your job is to seek out local opportunities for specific goods or services for our country to evaluate these opportunities, and to send information on them as quickly as possible to the potential suppliers at home, so as to enable these suppliers to react, if possible, before their competitors. It is the first acceptable offer received that usually gets the business. Your investigations must thus be quick, precise and thorough.<sup>22</sup>

This is not, however, to say that you must never transmit unverified information. It may be very useful to potential suppliers to learn of a possible requirement as far ahead as possible, so as to be able to take preliminary steps to respond to it. If you do decide to send it on, state clearly that it is an unverified rumor to enable the suppliers to exercise their own judgment on how to verify or to deal with it.

To deal with a trade opportunity which you have yourself uncovered or which has been addressed to you without your solicitation, you must obtain the following information.

- 1.1. Name and address of the inquirer, and name of the contact person.
- 1.2. Product specifications in sufficient detail to enable you to identify a suitable supplier or suppliers from your register of exporters. Take particular care to include all available technical data for industrial products.
- 1.3. Quantities required.
- 1.4. Any special packing, packaging, labeling or marking requirements.
- 1.5. Desired deadline for delivery.

<sup>22</sup> Be sure, however, that you have verified the information before you send it. Repeated failure to do so will eventually destroy your credibility.

- 1.6. The form that quotations should take (e.g. FOB, CIF), the currency in which the quotation should be made, and the terms of payment proposed.
- 1.7. Any available background information on the inquirer, e.g., whether an end-user, importer-distributor, etc., his/her credit rating and business reputation.

When this information has been obtained, both the information and the inquiry should be transmitted by the fastest available means, preferably by email and or facsimile, direct to suppliers most likely to be able to respond. A copy of your message should be forwarded by the same method to the appropriate TPO and/or for the MoC for follow-up.

Potential suppliers should be urged to respond by sending detailed quotations, together with brochures and/or any appropriate supporting documentation, direct to the inquirer, with a copy to your office and to the MoC or TPO at home for follow-up purposes.

Always make it clear to the local importers, as well as to the suppliers back home, that you will do your best to facilitate, but will not directly participate in, their negotiations. They must understand that your office is not a sponsoring body, does not guarantee the outcome of its efforts, and does not accept any responsibility for the standing or practices of any firm or person that may be the subject of your proposals or comments.

## **2. Inquiries on Exports to Our country**

Another common form of local inquiry relates to exports to our country. If your host country has an official commercial representative in our home country, you may refer your inquirer to him/her, or to the host government's own TPO. In some circumstances, it might be to your advantage to provide direct help.



### **Examples are offers involving**

- 2.1. Essential materials for agriculture or industry that are in short supply world-wide and are known to be in demand in our country.
- 2.2. A source of supply that is cheaper and/or better than those existing thereby providing prospects of foreign exchange savings and/or security of supply for our country.
- 2.3. The possibility of inhibiting good relationships with leading or prospective major importers of our products in the absence of reciprocity, or at least of effort on your part.

In some countries, it may be politic to assist local exporters in the interests of maintaining or enhancing harmonious business or official relationships and attitudes. Direct inquiries from state trading organizations or similar bodies or from government officials should obviously be referred to the authorities if you are unable to provide the direct help required, or if it is desirable or obligatory to do so.

## **3. Customs Inquiries**

Questions can also arise regarding the rates of duty imposed on our country's imports, the tariff classification of particular products, or customs procedure and the administration of customs tariffs. Because of the complexity of tariff provisions and the possibilities of periodic variations in such provisions, you should not attempt to interpret them unless this type of

work forms part of your specialist function. Inquiries from official sources should be transmitted to the authorities for advice. In all other cases, interested parties should be asked to contact the customs authorities direct, or to work through their official representatives in our country.

#### **4. Miscellaneous Local Inquiries**

Other miscellaneous trades inquiries will undoubtedly come your way but will rarely justify involvement. They may relate to the sale of patents or trade marks or to design rights for an invention that has not been launched successfully in the local market or in any other country. Again, others may wish to advertise their services in our country or to purchase or to sell real estate. Unless there is obvious merit and a real prospect of advantage to the country, the best solution then is to provide your inquirers with the names of appropriate professionals or associations with whom they can make direct contact.

### **C Trade Inquiries from Home**

#### **1. Information Requirements**

A large part of your time is likely to be devoted to dealing with inquiries from the suppliers at home, asking you to help them to find a market for their goods and services. You will also inevitably be asked to recommend appropriate local representatives.

To arouse interest in a trade offer from home, you must be able to provide potential purchasers or agents with a substantial amount of information on both the product and the supplier. A first inquiry from home frequently does not provide enough of the information you need to act effectively on your inquirer's behalf.

The type of information you will need will depend upon the nature of the product. The following is a fairly comprehensive check-list:

- 1.1. Illustrated literature in sufficient quantity to enable you to check the interest of a number of firms immediately. You may need additional copies for secondary distributors, retailers or end-users. Depending on the product, this literature may need to cover such factors as design, performance, quality, packaging, and technical specifications.
- 1.2. Samples, where appropriate.
- 1.3. Price information in the currency preferred. Prices should be for individual units and for quantities making up a minimum economic shipment, with quantity discounts where applicable. This might be required on an FOB basis, with case weights and dimensions to enable the importer to arrange his/her own insurance and shipping, or on a CIF basis, with separate figures for freight and insurance for purposes of comparison, according to the custom of the trade, or both. Landing (CIF) prices are usually preferred.
- 1.4. Achievable delivery schedules, having regard to the product's export availability and shipping frequencies, with details of seasonal factors, if applicable.
- 1.5. Particular uses and users, especially where technical equipment is involved. Brand names and any restrictions in use.

- 1.6. Examples of usual distribution methods at home or in other export markets for the product.
- 1.7. Names of previous agents or contacts made in your territory, the results, and views on representation. Is an agent required?
- 1.8. Information on the exporting entity. Details of exports already achieved, and its policies on market support in such forms as after-sales service, promotion costs or consignment sales and warehousing.
- 1.9. If desirable or necessary, can the exporter visit the market?

## **2. Steps to Take**

- 2.1. The first thing to establish in servicing a trade offer is whether there are any imports of the product in question and their extent, and whether the suppliers are precluded from the market or disadvantaged in any way by official regulations or provisions including non-tariff barriers to trade. This information should be available from your own reference material.
- 2.2. Next, investigate the nature of the market, i.e., how such product are distributed, the interest of prospective buyers, and the availability and interest of importers or of agents who are capable of satisfactorily representing the supplier.
- 2.3. Report to your inquirer the outcome of your investigation, covering:
  - 2.3.1. import statistics with comments on trends and major suppliers;
  - 2.3.2. non-tariff barriers to trade, if any, and a description of the import tariff situation as it will apply both to our country and to other countries;
  - 2.3.3. market requirements suitability of product, price, packaging, and delivery;
  - 2.3.4. alternative marketing channels, and the names of end-user major retail chains, etc., if you recommend direct selling; and
  - 2.3.5. the names of interested importers, agents or buyers; your views on representation, if appropriate.

Items (2.3.1.) and (2.3.2.) comprise a minimum reply to a trade inquiry. Items (2.3.1.) to (2.3.5.) make up a full report.

You cannot expect meaningful reactions from prospective buyers' representatives unless they have a very clear idea about the product concerned and about the exporter as a prospective supplier. Seek personal appointments in order to present the product, to ask questions and to gauge reactions face to face. Whenever possible, bring along a sample of the product.



## Chapter

# 10

## VISITORS TO HOME COUNTRY

Opportunities to promote trade may be lost if local business people are unaware of the many forms of assistance that you and the MoC or TPO can provide. You should, of course, give all possible assistance to the business visitor primarily interested in buying from, or investing in, our country. However, you might feel that helping a prospective visitor interested only in selling to our country is not your responsibility. Yet, there may be good reasons for offering assistance. A seller on one occasion may be a buyer on another. By being cooperative and providing information, you will build up goodwill, which one day could result in export sales. Make a point, therefore of helping any business person who proposes to visit our country either to buy or sell.

### **A** Advantages

A buyer visiting our country can cover the entire supply chain, see the complete range of available products of interest to him/her, study and discuss production techniques and quality control aspects with technical people on the spot, assess comparative advantage/efficiency, establish important personal relationships, and leave with the conviction that he/she is associated with the best possible supplier. In addition, the visitor is likely to encourage the supplier to visit him/her in return, which will consolidate the relationship and develop the teamwork essential to successful market penetration. A further advantage is that the buyer will provide valuable market-related information and experience to the exporters visited.

### **B** Encouraging Business Visits

When you receive an inquiry from a local business person, ask about his/her business activities and those of enterprises with which he/she may be associated. He/she may inquire only about one product simply because he/she is unaware that our country can offer other items of interest. When you are in contact with a potentially important purchaser, encourage a visit to our country. You have the best chance of convincing him/her to do so if you are knowledgeable about our country's products, producers, and potential for meeting his/her needs, and if you can provide introductions to the appropriate trading enterprises.

Incentives, other than competent help, are rarely necessary to attract a suitable buyer if you have something worthwhile to offer. The businessperson who arrives in our country as a tourist and seeks information and appointments unaided loses valuable time and miss main contacts and opportunities. If he/she receives expert and friendly help at both ends and achieves his/her objectives, he/she will not only tell business associates of his/her experiences

but also will be anxious to maintain the personal relationships that have been established and to develop the business that has been started.

## **C** Group Travel

Keep in contact with local agencies that sponsor and organize trade missions – the ministry of trade, chambers of commerce, industries institutions, and export and import associations. Try to learn of planned missions in time to persuade them to include our country on the programme, if it fits in with the mission's itinerary and purposes.

To stimulate group travel, get a complete list of the business association and clubs in the country. Which ones have a membership that includes potential buyers of our products? Find out all that you can about the activities of the relevant associations and the interests of their member. List reasons for encouraging a group of members to visit our country and consider how you can ensure an interesting and rewarding tour. Prepare the ground well and address the specific needs of each target group. Then solicit invitations to give talks at their luncheon and other meetings, or seek out two or three influential members in each organization who will interest their colleagues in your proposals.



## Chapter

# 11

## PRESS RELATIONS

Since sufficient funds are rarely available for an advertising campaign, make every effort to obtain free advertising in the form of editorial publicity. To this end, identify the right publications for your purposes, and devise a strategy for placing your material in them. One way to do this is to ask business contacts of the category you are trying to reach which publications they regularly read.

### **A** Specialized Publications

In every industrialized country and in an increasing number of developing countries, there are numerous business publications that serve specific industries, trades or professions. Their circulations tend to be relatively small but to cover a wide geographical area. They regularly publish news and other information not carried by more general publications. However, when promoting consumer goods in a small geographical area, a daily newspaper may be the more appropriate medium. Consumer magazines may be particularly suitable for feature stories, news items and advertising on products in the food, clothing and home furnishing industries.

### **B** What to Look for In Publications

In a major industrialized country, you may not be able to familiarize yourself with all the publications available. You must identify the leading business magazines and newspapers that deal with our products. When you have done that, what should you look for when studying these publications?

- Do they publish articles about specific companies or products?
- What seems to interest them about products?
- Are they interested in foreign statistics and trends or in personalities?
- Do they publish feature articles about whole industries, including those of foreign countries?
- Do their articles seem to be based on reporting or on press releases?
- Is the reporting done by their own staff or by outsiders?
- Do they have one or more sections for short news items?
- How is the publication divided according to subject matter?
- Do they use photographs and if so of what subjects, and how do they treat them?

**C**

**Press Releases<sup>23</sup>**

All publications rely to a greater or lesser extent on press releases. However, a vast amount of such material is received and thrown away without being used. Your task is to:

- identify the target audience you wish to reach;
- select the medium, i.e. the publication which would be most likely to reach that audience;
- prepare a press release that will have a reasonable chance of being published; and
- send or, better if you know the appropriate contact, take it personally to the publishing office.



**The two major aspects of a press release are content and presentation**

**1. Content**

A press release must contain news and news must be.

- 1.1. Factual: Avoid vague generalities.
- 1.2. Timely: Peg the story to an element that makes it timely.
- 1.3. Meaningful: The story should be of inherent interest of the publication.

The elements of a good press release are.

- 1.4. A brief headline that identifies the subject and gives the gist of the story
- 1.5. A summary of the story, with all vital details, in the first paragraph: what happened or is going to happen; the name of the organization, the people, products or services involved; the date and time, if relevant; the place; and the significance of the news.
- 1.6. Short, simple sentences and brief paragraphs.
- 1.7. Specific facts and factual comparisons if appropriate.
- 1.8. Brevity. The release should, if possible, be no longer than one typewritten page.
- 1.9. The release should also indicate where the editor can get further information (name, telephone, postal address, email, and internet homepage).

**2. Physical Layout**

Physical layout is also important.

- 2.1. Use paper with a heading specially printed for your press releases, with the words “News release” or “Press release” spread across the top in fairly large type. The name of your organization should also be prominent (even if the release is issued by a public relations agency); it can be printed at the top or bottom. The paper size should be that of a full typing paper. The foolscap size is best because you can get more on one page.
- 2.2. Use only one side of the sheet.

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<sup>23</sup> For export promotion purposes, concentrate on releases that match the interests of a limited number of publications rather than on general releases.

- 2.3. Whatever reproduction system is used, copies should be clean and legible.
- 2.4. Double space, with wide margins on either side.
- 2.5. Always place the date of the story at the top. If the story is not for immediate release, state on top “Not for release until (date; time if necessary)”.
- 2.6. No underlining. No capitals except for initials and to begin sentences and proper names.
- 2.7. No full stops in acronyms, e.g. “ITC”, “UNCTAD”, and “WTO”.
- 2.8. Use inverted commas sparingly: for material from another source, excerpts from an actual statement or speech, etc.
- 2.9. If the story runs over one page, put “(MORE)” at the bottom of each page. Staple sheets together at upper left corner.

### 3. Distribution<sup>24</sup>

Try to address releases to specific individuals or publications. For the most important journals follow personnel changes to keep your mailing lists up to date. But for most publications you will have to settle for addressing the release to the “News Editor”, “New Products Editor”, “Business Editor”, and “Foreign Editor”, etc. If you have an accurate idea of the internal organizational structure of the various publishing houses, you can at least direct releases to the right departments. You can assemble your lists with the help of media guides and press directories, and by examining the journals themselves.

Do not overlook sending general releases to the regular news services. One or more of them will have bureau in your city. Getting to know journalists can help you to gain a better understanding of their publications’ needs and to make them more receptive to publishing your press releases.

#### **D** Press Conferences and Receptions

From the publicity point of view, press gatherings can be more effective than press releases, because they can heighten the interest of journalists in a story. The conference or reception can itself become the news event. But there must be news of real interest, not merely news that could have been sent in a press release. The strongest reason is usually the chance to meet the people involved, to ask them questions, to seek more information along the lines of their particular interests, and to form personal impression. The people whom the journalists are called to meet should be willing and able to answer questions. Another attraction for journalists is the chance to see, to examine, and perhaps to sample the products concerned.

You can use press gatherings on a variety of occasions. When an important official from home is in the host country to negotiate a trade agreement, a press conference would provide a suitable platform announcing it and for discussing its implications, our country’s export potential and its position on any matters in dispute. A press conference at least for representatives of trade publication could help publicize a major new business deal, if the principals are on hand to discuss it. Again a press reception should be a standard part of publicity for trade missions and exhibitions.

<sup>24</sup> In some countries there are public relations wire services. For an annual fee, they will transmit your releases by telex direct to many publications. This is especially convenient for general releases, and can save a lot of work and even postage and preparation costs.



**Keep the following in mind when arranging a press conference or reception.**

- ▶ Programme: The programme for a press conference can be quite simple: a brief introduction by the host; a prepared announcement or statement by the main speaker (or speakers); a question-and-answer period; and perhaps a brief refreshment period, during which the reporters can chat informally with the speakers.
- ▶ Briefing speakers: As the person organizing the press event, you should brief the speakers and other participants on the purpose, the programme, the publications likely to be represented, their particular interests, and the expected direction of questions.<sup>25</sup>
- ▶ Timing: The timing of a press event can affect coverage. You will have the best chance of attracting the journalists you want if you stage the affair during business hours (including the lunch hour). Your invitation to the gathering should:
  - Specify the nature of any hospitality;
  - Indicate, by the use of “RSVP” for example, that you would like a reply, giving the name, telephone number and address to be contacted;
  - Have a programme attached, if the programme is elaborate, and the list of speakers.<sup>26</sup>

Before the reception, have a list produced of the journalists expected to attend, with the names of their publications, for the information of the speakers and other participants.

- ▶ Hand-outs: Distribute a press release at all press conferences and receptions, covering announcements made or the other news with which the event is concerned. If there is a formal announcement, include the full text as a supplement to the press release, if possible.
- ▶ Location: Hold the press conference or reception at a place that journalists can easily reach from their offices. For a simple press conference, your own office or your embassy may be adequate. For large press conferences or receptions, facilities may have to be more elaborate.
- ▶ Ensure that all necessary technical facilities are available, such as telephones, facsimile, internet service, sound equipment for the speakers, power outlets for display lighting, slide, overhead, or motion picture projectors, etc.



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<sup>25</sup> Be sure to advise them on any potentially embarrassing or awkward subjects that might come up, and agree on how these should be handled. Agree also on who should say what, and on the duration of the statements. Have all necessary facts and statistics available.

<sup>26</sup> Enclosing a personal letter or perhaps a brochure on the occasion connected with the press event to give a better idea of what would be of news interest may help to stimulate attendance.

## Chapter

# 12

## THE APPROPRIATE TRADE FAIR

In principle you should be fully involved in decisions on whether to hold a trade fair in your territory and in subsequent planning, implementation and follow-up actions. In most cases, the TPO, MoC, or other institution at home will have assumed the primary responsibility for such major tasks as selecting an appropriate exhibition manager and experienced construction tradesmen, organizing participation by our country's enterprises, selecting forwarding and clearing agents, preparing and shipping the exhibits, erecting the displays, hiring extra staff, and generally managing our country's participation in the event. The MoC or TPO may also carry out the evaluation of our country's participation in the fair through continuing, direct post-fair contact with individual exhibitors.



### What are the Trade Fairs and/or Exhibitions?

Trade fairs are among the most common techniques of export promotion used by governments. They can be among the most effective, but results, long-term results in particular, are often poor in terms of the time and money spent. Here are some reasons for such shortcomings.

- Failure to make participation part of a broader marketing programme.
- Unclear objectives.
- Lack of market information.
- Unsuitability of the fair for the products exhibited or for solving the marketing challenge.
- Unsuitability of the products to the market.
- Exhibitors not ready for, or not really interested in, the market.
- Poor performance by exhibitors.
- Stand poorly located, badly designed, and badly managed.
- Budget too small.
- Display goods or literature incomplete, damaged or late.
- Inadequate advance publicity.
- Poor audience at the fair.
- Last-minute or no planning and no follow-up.



**It is vitally important for you to understand how these pitfalls can be avoided.**

### 1. Trade Fairs Offer the Following Advantages to Exhibitors

- 1.1. **Concentration.** Face-to-face encounters are the most effective way, of selling or promoting a product. But these will not be possible when buyers are scattered over a wide area. While advertising will reach great numbers of people, it is not as effective as personal selling. A good trade fair combines the advantages of personal selling and advertising. It brings together large numbers of buyers in one place, and provides the opportunity both to present a sales message face to face, and to answer questions.
- 1.2. **Product Presentation.** Trade fairs are often the most practical way for producers to show buyers their products. This can be essential for closing a sale.
- 1.3. **Assessment of Buyer Reaction.** Trade fairs offer the opportunity for immediate feedback from members of the trade. The exhibitor can often find out immediately if his/her product is right for the market or how it should be changed to make it right. It is also possible to obtain reactions to a product from consumers. But since a trade fair does not necessarily attract a representative cross-section of the public, such reactions may not be very meaningful.
- 1.4. **Audience Interest.** Business people visit trade fairs because they are interested in seeing what is on offer. They tend to be in a buying frame of mind and are thus receptive to approaches from prospective new suppliers.
- 1.5. **Reaching Unknown Traders/Partners.** One of the problems in marketing particularly in export marketing – is to identify prospective buyers, importers, or others who can help to sell the product. An important advantage of trade fairs is that they enable an exhibitor to meet people whom it would otherwise be difficult to contact.
- 1.6. **Viewing the Competition.** Major trade fairs count among their exhibitors most of the important companies in their respective fields. One of the advantages of participating in such fairs is being able to study the products and some of the marketing techniques of companies which are already successful in the market.

## 2. But Trade Fairs Have Certain Drawbacks as Well

- 2.1. Exhibiting at fairs is costly and if too much of the budget is spent on fairs, there may not be enough left for other marketing methods which might meet our country export objectives more cost-effectively.
- 2.2. Suitable fairs in priority target markets are not always available.
- 2.3. Small stands, even national stands, can easily be overlooked in large fairs.

## 3. Other Marketing Techniques Have Their Particular Advantages for Example

- 3.1. Market research carried out by professional researchers can provide more accurate and complete data than can be collected at a fair.
- 3.2. Arranging individual sales visits can ensure meeting the right people and spending more time with them than would be possible at a fair.
- 3.3. Trade missions can attract publicity and offer advantages similar to those of individual sales visits.
- 3.4. Sales promotion material can be mailed to a selected but large number of people quite economically.
- 3.5. Advertising and press publicity can help to maintain awareness of our country and its products on an ongoing basis.
- 3.6. Arranging visits by buyers to our country's manufacturing facilities can be the most effective way of convincing them of our suppliers' capacity to deliver.

Each marketing situation calls for its own mix of promotional techniques. Reliance on a single technique – including trade fairs – is almost never enough. In summary, trade fairs should be used when they are really suitable; other techniques should be employed when they are more appropriate.

## **B** Deciding to Enter the Fair<sup>27</sup>

### **1. General Considerations**

Poor results from a trade fair often go back to a wrong decision to enter it in the first place. Unfortunately, the people responsible for organizing participation may not have a say in the initial decision. It is, therefore, of great importance that you fully understand the role of trade fairs in export promotion. Before a decision is made to enter a trade fair, the following questions should be considered:

#### 1.1. Is this an important or potentially important market for your products?

There is never enough money to promote exports in all markets, so it is only sensible to spend what money is available in markets that are the most promising. These could be markets where your sales are already substantial, or where there is evidence that sales could become so with sufficient promotion.

#### 1.2. Do the products meet market requirements?

More harm than good can result from showing products which do not meet market standards and tastes.<sup>28</sup> By doing so, exhibitors will not only fail to sell but also risk creating a bad impression, which would make future sales more difficult. The following factors should be known before deciding to enter a fair.

- 1.2.1. Prices for such products in the market.<sup>29</sup>
- 1.2.2. Market requirements in terms of specifications, quality, labeling, and packaging.
- 1.2.3. Preferences in taste, color, and style, etc.

If necessary, research the market to obtain this information. If the products do not measure up, they should either be changed or not be shown. If our country does not have enough marketable products, it should not sponsor a national stand at a fair.

#### 1.3. Can our country produce enough to meet demand?

If not, there is little point in exhibiting. Insufficient capacity will not only limit sales and, therefore, the return on the investment in the fair but also result in unreliable deliveries, which can damage our country's reputation. Rather than spreading promotional efforts over more markets than can be serviced properly, it is better to concentrate on fewer markets and build a strong base for future growth.

<sup>27</sup> There may be political or other reasons for entering trade fairs in particular countries, but from the commercial point of view, the primary reason should be sales potential.

<sup>28</sup> i.e., Angkor Beer and Extra Stout early introduction in the U.S. east-coast market in 2000s.

<sup>29</sup> *Ibid.*

#### 1.4. What are your marketing challenges in this market?

Aside from supply, other marketing challenges must be identified before one can decide if exhibiting at a fair will help to solve them. They form the basis for deciding on the objectives of participating in a fair.

#### 1.5. Would entering any fair be the best way to achieve your objectives?

If you need only to contact a few major buyers to sell the product or simply to collect information on a market, then exhibiting at a trade fair would be an unnecessarily expensive way to go about it. Individual sale or market research visits would be cheaper, and probably more effective. They might include a visit to a fair, without actually exhibiting in it.

#### 1.6. Is this fair the best one to enter?

The names of trade fairs can be uninformative or even deceiving. Before a decision is made to enter the fair information about the audience, exhibitors, and types of products shown should be collected. These data should be analyzed against your marketing objectives, to see if the fair would actually help to achieve them. These data should also be compared with data on other fairs which might turn out to be more suitable.

#### 1.7. How much would it cost to exhibit effectively?

Exhibiting at a trade fair successfully is usually a very costly operation. Money has to be spent on some form of publicity; on renting a stand large enough to be noticed; on designing and decorating the stand to create a good impression; and on transport and subsistence for the staff required to operate the stand effectively. These, and many other costs, should be considered carefully before deciding to exhibit.

#### 1.8. Would the results be worth the cost?

The market may be promising, the product acceptable and the fair a good one. Still, the anticipated benefits, such as additional sales, may not be worth the costs of entering, especially when compared with the other ways in which the money could be spent.

#### 1.9. How much Phnom Penh is prepared to invest after the fair is over?

Exhibiting at a trade fair is often only the start of a long process of market development. Contacts must be followed up, and more money may have to be invested in such matters as packaging, promotion, periodic visits, and exhibiting again at the fair in the future. All this requires not only money but management time. Unless the exporters are ready to make such a commitment, they will probably be wasting money by going into a trade fair, and the MoC or TPO would be wasting its money in supporting them.

## **2. Setting Objectives**

Setting clear objectives is a crucial step in choosing a trade fair and planning effective participation. Setting objectives is a process, not a single step. First, the MoC or TPO in

cooperation with our exporters must set its broad export promotion objectives in terms both of industries to be promoted and of sale of specific types of products in the target market. Only at this point do you have a solid basis for choosing from among various promotional techniques including trade fairs, and for choosing specific fairs.

 **Examples of typical marketing objectives are:**

- 2.1. finding importers or agents;
- 2.2. achieving sales for a product in a new market.;
- 2.3. increasing the amount of sales for particular products;
- 2.4. increasing the prices obtained for particular products;
- 2.5. selling to a particular industry or trade segment for the first time;
- 2.6. familiarizing consumers with a product;
- 2.7. establishing a particular image for a product, a supplier, or our country as a whole.

Defining objectives at the earliest possible time is important, not only for deciding to enter a fair, but also for planning various aspects of the participation. Setting objectives is also vital for carrying out a third function: evaluating the results of a fair after it is over.

### **3. Identifying and Evaluating Trade Fairs**

The best way to find out about the existence of suitable fairs is to ask people who live in the market and who are in the trade in question. Failing that, directories can be helpful. There are many different types of fairs or exhibitions. They each can achieve different marketing objectives. Each exhibition must be clearly analyzed and evaluated, in relation to the mandate marketing objectives, before any decision can be taken on whether to exhibit.<sup>30</sup>

#### **3.1. Types of fairs**

Fairs can be classified in various ways and do not always fit neatly into categories, but most would fall under one of the following headings:

##### **3.1.1. Major general fairs**

All kinds of consumer and industrial goods are exhibited. They are open to the public, but business visitors also attend. The audience may be international, national, regional or even provincial in scope. The major general fairs have specialized pavilions, but many foreign exhibitors are placed in the international pavilion, where they may miss the specialized visitors. However, in many countries outside Western Europe and North America, general fairs may be the only kind available.

##### **3.1.2. Major specialized trade fairs<sup>31</sup>**

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<sup>30</sup> No two exhibitions are the same, and rigid definitions and classification are impossible. There is no accepted terminology by which to identify the nature of an exhibition from its title. The words “fair”, “exhibition”, “track show” and others are used interchangeably. The word “international” is often used too freely to indicate how important – or how international – the fair really is.

<sup>31</sup> If you are trying to enter a market, these fairs offer an excellent opportunity to find an agent or importer/distributor. When you are established in the market, these fairs can often be used to support representatives, by making contacts with industrial buyers, retailers, etc.

These are primarily for business visitors, although some also admit the public, usually for only part of the time. They are specialized by industry or trade sector (for example, food or leather), or sometimes by market (for example, hospitals or schools). The audience can be both international and national in scope, and tends to include people from various levels of trade and industry.

These are usually the most valuable fairs, because they attract large numbers of business people from the sectors covered. In Western Europe particularly, an exhibitor at a major specialized fair can be certain that a large proportion of the business people he/she would want to contact in the country will be at the fair, along with many business people from other countries as well. But it is up to each exhibitor to try to attract a reasonable number of these people to the stand, and the larger the fair, the more difficult this can be.

### 3.1.3. Secondary trade fairs

This category covers the majority of trade fairs. Although they do not rank with the major trade fairs, they can be very important in their respective fields. They include highly specialized exhibitions which are national or even international in scope, as well as many regional and provincial specialized exhibitions. They are usually restricted to business visitors, and many of the regional or provincial exhibitions are aimed specifically at retailers.

Once present in the market, both national and regional fairs can be important means of reaching the trade at all levels. They offer an opportunity to strengthen a distribution set-up or to increase market penetration. In fields such as clothing and giftware, these specialized fairs are often the main channel for introducing new lines to the retail trade, annually or semi-annually. They can be the main ordering event in the trade, and many exporters find it essential to enter such fairs regularly. Often the best way to do this is in collaboration with a distributor.

### 3.1.4. Consumer fairs

These are visited primarily by the general public either from the immediate area or from various parts of the country. Most of these fairs are general with respect to products shown and audience interest, but there are many important consumer exhibitions which specialize in automobiles, boats, “the home”, etc.

If an exporter’s products are available in the shops, and they are readily identifiable, it can be useful to employ consumer fairs as a promotional tool, particularly if one is exhibiting with a major retailer already handling the products.

## 3.2. Audience data<sup>32</sup>

<sup>32</sup> Trade fair organizers can collect qualitative data by requiring all visitors to fill out a registration form before permitting them to enter and by interviewing a sample of the audience. The fairs which provide the best data use a combination of both techniques. Take the trouble to ascertain exactly what method was used to produce the data provided by the organizers. In addition, verify the reliability of the information by reference to the reputation of the organizers, or to independent assessors if applicable.

The single most important thing for you to find out about a trade fair, before recommending that our exporters exhibit in it, is who comes to see it. The purpose of participation is to promote products among visitors. You should be sure that the visitors are the people the exhibitors will wish to see. This involves three stages:

- 3.2.1. clearly define your target audience;
- 3.2.2. identify the origins and types of visitors who attended the exhibition in question in previous years; and
- 3.2.3. assess the degree to which your target audience and the actual visitors coincide.

### 3.3. Exhibition data

In order to evaluate a fair, it is also important to obtain as much information as possible about who exhibits at the fair, and what kinds of products they show. Try to aim for a fair that shows products similar to yours. Although this will place you in a competitive environment, the fair is more likely to attract a large number of visitors genuinely interested in seeing such products.

## **C** Planning Participation in a Trade Fair

### **1. Information Requirements**

Once a decision has been made to participate in a trade fair and a project manager has been appointed in our country, he/she will need a great deal more information to plan and carry out the project successfully, and will rely on you to provide it. Two types of information are needed:

- 1.1. information on the fair itself; and
- 1.2. information on the market.

Most of the information will probably not be at hand or known to the exhibitors, and market research will be necessary to obtain it if it was not, carried out before deciding to enter the fair. In any event, additional information may have to be collected. This should be done in the early stage of preparing for the fair. A check-list of the market information that you will have to obtain given in annexes 3-4.

### **2. Initiating a Trade Fair Proposal**

If you are initiating a recommendation for participation in a trade fair, prepare as thorough and complete a recommendation as possible, because.

- 2.1. You may have to convince our authorities that they should allocate funds and other resources for your proposal, at the likely expense of other projects in other markets.
- 2.2. Our authorities will need such information to convince the various potential exhibitors that they should participate.
- 2.3. Your costs proposal must be included in your annual work programme for the period concerned.

### **3. Action on Acceptance of Proposal**

#### 3.1. Further market research

If your proposal is accepted and our government in Phnom Penh decides to stage the exhibit, move on to the second phase of your preparatory market research as soon as possible after approval. You will need at least three to six months from the date of a firm decision to do a proper research job, and so will our authorities at home.

#### 3.2. Planning report

As soon as the decision has been made to participate in a fair, seek clarification from the MoC or TPO on your responsibilities. Our authorities will need your advice on many matters for budgeting and organizational purposes. Start as soon as possible to gather information that will serve as the basis of your planning report. Matters of likely concern will include:

#### 3.3. Your responsibilities

Your responsibilities in relation to the staging of the exhibition must be absolutely clear.



## Chapter

# 13

## TRADE FAIR PARTICIPATION – BEFORE, DURING, AND AFTER

### A Planning

Careful planning is vital. As soon as a decision has been taken to enter a fair, take upon yourself, unless otherwise directed, full responsibility as local coordinator of all fair-related activities. Your first and most important task will be to draw up a work plan and a timetable.

#### 1. Planning Procedures

An effective plan can be produced only after the following preliminary steps have been taken.

- 1.1. The necessary tasks and activities must be identified.
- 1.2. The responsibility for carrying out each of these tasks must be allocated.
- 1.3. The time necessary for each task must be estimated.
- 1.4. The sequence of the tasks must be determined.

The objective of planning is to enable everybody involved in the fair, and in the preparation for it, to know.

- 1.5. What he/she is responsible for?
- 1.6. When he/she must start his/her tasks.
- 1.7. By when he/she must finish them.

Every aspect of the organization of construction and decoration and of the timely clearance and setting up of display equipment needs the closest attention. Allow for unexpected or unavoidable delays and difficulties in preparing the time schedule for this work.

#### 2. Critical Path Method

To this end, you are strongly advised to apply the critical path method (CPM). First, determine which pre-fair activities can be pursued simultaneously (i.e. in parallel) and which must be done sequentially. Then, working back from the opening date, plot these activities on a chart, both in parallel and in sequence. By establishing target dates for the completion of each activity, your critical path will emerge clearly as the longest path through the network of activities. It is necessary to do this at the earliest stage to determine if it will even be physically possible for home country to participate in a given event within the time available.

To ensure that all the necessary arrangements are made in good time and that deadlines are met the check-list given in annex 5 can be particularly useful.

## **B** Freight Clearing and Forwarding Agent

The assistance of a competent clearing agent is essential if most of the exhibits are to be imported. If you are called upon to select an agent, it is sensible to obtain quotations from two or three. Cost considerations are not the only factor in making a selection. Sources such as customs authorities, banks, your colleagues at other embassies, fair authorities, chambers of commerce, large firms known to participate in exhibitions, and the professional association to which clearing agents subscribe, if any, should be able to recommend the names of competent agents.

You may be able to satisfy yourself on some of these points by calling on those selected to bid and to ask further questions. Bids should be invited in such a way as to enable you to compare the charges of each in respect of transfer of materials to the fair or exhibition site, uncrating, placement in exhibit areas, bonded protection against damage or loss, inventory control, clearing of exhibit site, crating, storage as necessary, and reshipping.

## **C** Shipping Arrangements

You may be responsible for advising the MoC or TPO at an early stage of any shipping provisions and customs regulations peculiar to the fair. If these are not documented adequately by the fair authorities, you may need to look to the clearing agent in the first instance for this information.

## **D** Exhibition Construction

The design of the display, whether done at home or locally, will be decided on by experts in either or both countries, and will be based on a detailed site survey and other considerations. A complete national pavilion may be involved, or merely a simple structure in an existing permanent building. In either case you may be required to invite bids for the construction of the stand and to select and to supervise the work of a local contractor against specifications and a time schedule, and within the budget. Allow time for translation of drawings and plans, if necessary. Wherever possible, the contractor selected should be able to handle all construction, decoration, and installation work. The trade fair organizers usually identify and recommend a suitable contractor, but if not, many of the same persons/firms approached for advice on freight clearing agents should be able to recommend a competent contractor and to provide information that will enable you to determine a suitable the contractor.

## **E** Recording Contacts and Follow-up

One of the most important tasks for anyone who organizes a joint exhibit is to ensure that every exhibitor has a properly designed and effectively used system for recording and following up all contacts. Problems arise in part from bad briefing or unclear policies, but the most common errors are:

- inaccurate recording of contacts; and
- inadequate follow-up of contacts.

Before doing business with any organization it is obviously useful to have a large amount of information about it, but what information can be obtained in actual practice? As a minimum, try to get.

- Name of the contact.
- Date of the contact.
- Name or initials of the exhibitor's staff member who records the inquiry.
- Type of business. A useful categorization is:
  - trade buyers;
  - potential agents or representatives;
  - retailers not buying direct;
  - salesmen for products or services;
  - journalists;
  - government officials; and
  - interested members of the general public.
- Orders placed (a "yes" or a "no") possibly with the value and products involved, the order itself would be on an official form with all details and duly signed.
- Quotation required (details of the products, quantity, delivery payment and shipment terms).
- Samples required (unless the cost is negligible. samples should be ordered on an official order form, even if they are to be supplied free of charge, this ensures that the customer is genuinely interested).
- Information required (specific details).

## F

### Record of Inquiry Forms

Each staff member on a stand should have a supply of record of inquiry forms, possibly on a duplicate pad. Inquiry forms should be unobtrusive, and yet clear enough to act as check-list so that no essential information is omitted during the conversation. It may also be appropriate to keep a visitors' book recording names and addresses, and possibly cross-referenced to numbered record of inquire, forms. Signing the visitors' book can be presented as something of an honor, particularly if ambassadors or other notables can be persuaded to sign first.

## G

### Promoting the Stand

At a good trade fair you can be fairly certain of a large audience. But unless you have a large and extraordinary display, or are already of great interest to visitors, you cannot assume that many visitors will come to your stand. For this reason, advance promotion is needed to ensure that the people whom you want to visit your stand are aware of it, and to stimulate their interest in visiting it. Promotion during the fair can also help to attract visitors.

#### 1. Promotional Techniques

- 1.1. Identify the most important contacts in advance. Get in touch with them individually by email and even, if possible, visit them personally.

- 1.2. Do not concentrate publicity in the very crowded day or two preceding the opening. Start your publicity campaign three to four months before the exhibition opens.
- 1.3. It is almost always best to use a local publicity agency.
- 1.4. On a limited budget a press relations campaign may be more cost-effective than a small number of paid advertisements.
- 1.5. A good clear advertisement in the exhibition catalogue, combined with the free entries, is often worthwhile.
- 1.6. Cooperate with the organizers on catalogue entries, press kits, press conferences, and visits of VIPs and all other opportunities for publicity.
- 1.7. Spend your limited advertising budget on one substantial advertisement or insert in the trade press rather than on a number of smaller advertisements which will most probably have little impact.
- 1.8. Wherever possible, name exhibitors' agents or distributors in advertisements.
- 1.9. Put together up-to-date media lists and foster good personal relationships with editors and other important opinion leaders.

## **H** Managing the Stand

Poor management of a stand can negate the careful preparations for a fair. While the success of the exhibiting enterprises is mainly the responsibility of their own representatives, the stand manager should ensure that they have the best possible environment in which to conduct business. He/she must make the stand work. That means ensuring that all stand staff perform effectively. It also means troubleshooting, providing all possible assistance to the exhibitors, and encouraging them to work together and to perform their tasks effectively. Their performance affects the success of the whole participation, and it is up to the stand manager to see that they live up to this broader responsibility.

A major part of the stand manager's job is ensuring that visitors are looked after and meet the right representatives. He/she must also deal with contractors, the fair organizers, and the press, and see to the many arrangements involved in receptions and, if there is one, the national day. Before the fair opens, the manager may be responsible for briefing the staff and exhibitors. When it is over, he/she must prepare a final report, ensure that the temporary staff are paid, and see to the packing and disposal of the display materials and samples.

## **I** The Stand Staff

The staff members work under the direction of the stand manager and are responsible for assisting customers, referring them to the appropriate representatives, answering inquiries, running errands, and generally following instructions in order to contribute to the success of the exhibition. They should be.

- Familiar with the local business language.
- Able to become quickly familiar with the exhibitors' products and objectives.
- Willing to work hard, to cooperate with others and to do any task necessary for the success of the exhibition, however menial or unfamiliar.

Stand staff may be employees of the MoC or TPO or of enterprises sent from our country for the purpose; employees of your embassy or other mission of our country based in the market;

or specially recruited temporary help. If you must choose between bringing staff from home, using locally-based staff, or hiring temporary staff, the following factors should be considered:

- Staffs from our country know about the product, can learn about the market and use their new knowledge on their return home, and are committed to the success of the exhibition.
- Locally-based staffs do not incur heavy transportation, expenses, may be familiar with the market and how to sell the product, are likely to be fluent in the local language, and may, themselves be following up the inquiries received at the exhibition.
- Short-term temporary staffs may be more familiar with local selling techniques, know the local language etc., do not require any accommodation or transportation expenses, and will eliminate the need to reduce the manpower available for other regular tasks.

## J

### The Exhibitor's Responsibilities



#### **Each representative of an enterprise from home should.**

- Be sure that his/her exhibit is ready on time, is presented in the most effective way, and is in first-class working order.
- Make pre-fair calls on major customers or potentially important customers and other recommended contacts to ensure their attendance.
- Be there personally to receive visitor to demonstrate products, to answer technical and commercial questions, and to entertain potentially important customers as necessary.
- Study all relevant displays at the fair, obtain literature, and ask questions. In this way he/she will learn what competitors are doing; how to display; sales and promotion techniques used; what technical innovations have been developed; quality, price, packaging and performance considerations; in fact, all the intelligence required to maximize future effectiveness in the market.
- Support his/her local representative, if any, and evaluate the adequacy with which he/she is working the market.
- Talk with the widest possible cross-section of potential importers, agents, and distributors to enable him/her to make the right appointments.
- Visit prospective agents and customers after the fair to finalize and confirm arrangements and contracts in writing.



#### **Each exhibiting company is expected to.**

- Prepare literature for distribution at the fair, specific to its products, in adequate quantity and appropriate quality, with due regard to languages, currency, and weights and measures used locally. Price lists should be calculated on a CIF basis; C&F for buyers who prefer to arrange their own insurance. Capacity to supply in terms of quantities, shipping schedules and transit times are also important details to cover.
- Provide descriptive literature and price lists to enable you to undertake sufficient specific market research to help the company to utilize the time to best advantage after its representative arrives.
- Provide categorized lists of all invitees to the display and to special functions.

- ▶ Advise agents and distributors (if any) of action required of them and the need to cooperate and to coordinate their promotional planning with you.
- ▶ Prepare any special labels, display material, or posters that may be necessary. Where distribution channels have already been established, for example, a list of names and addresses of all retailers and wholesalers throughout the country from whom its products are obtainable should be prominently displayed. When business people from other countries are expected, pamphlets containing similar information on those countries should be available at the stand. The language should be appropriate to the target market.
- ▶ Provide suitable press release material – the company is the expert on the newsworthy aspects of its products.
- ▶ Provide the information required for the fair catalogue and exhibitors' directory.
- ▶ Advise on insurance requirements and disposal or transfer of exhibits at the end of the fair.
- ▶ Provide an exact listing of display items, together with installation and servicing instructions for particular equipment (where necessary).
- ▶ Provide the name, title and arrival date of its fair representative.

You will need most of this material and information in good time before the event. Write to our authorities, listing what you want from participating enterprises, and setting deadlines for receipt of the information and materials concerned.

## K

### Briefing Exhibitors

The representatives of participating companies should arrive before the exhibition starts. Prepare briefing papers well ahead of time. Assume that exhibitors are newcomers to your territory. Each will need a kit outlining everything he/she should know in order to become effective rapidly. Each kit should contain the following:



#### Each kit should contain the following.

- ▶ Visitors' information brief.
- ▶ Trade digests of the country.
- ▶ Market survey specific to the products of each participant.
- ▶ List of firms that have indicated interest in the products of each participant, together with a list of appointments made showing names, titles, firms, places, times, and purposes.<sup>33</sup>
- ▶ Lists of people (and their firm, associations, and ministries, etc.) invited to each of the hospitality events. For each participant, indicate that particular importance.
- ▶ Copy of the fair catalogue, of our exhibitors' directory, and of any other publications prepared for the occasion.
- ▶ Fair pass and an identification badge.
- ▶ Pads of record of inquire and exhibitor's report forms.
- ▶ Fair participation programme. This should be a concise but comprehensive document covering, for example:

<sup>33</sup> Provide credit rating reports and other background on the people and firms concerned, where desirable.

- introduction giving brief facts and figures about the fair and its importance as a promotional channel for the industry or products concerned, expected attendance and participation, and important regulations lay down by the fair authorities;
  - timetable; provide dates of the fair, its location, viewing hours, official opening;<sup>34</sup>
  - fairground facilities;
  - display arrangements for our stand;
  - administrative arrangements, including a list of personnel involved and their responsibilities.
- Marketing plan. Provide details of:
- direct mailing programme;
  - hospitality events;
  - publications;
  - publicity programme;
  - advertising;
  - special promotional activities;
  - trade inquiry procedures;
  - evaluation, reporting and follow-up.

The first briefing session should be called as soon as all, or a majority, of the exhibitors have arrived, and not later than the morning of the opening day of the fair. Prevail upon them to work closely with you. Draw attention to the need for evaluating the total effort, and the particular relevance of the exhibitor's report and record of inquiry form in this context. Obtain their agreement to a daily briefing session, and set a mutually agreeable time and place.

## L

### Evaluation and Reporting

Evaluation is difficult, time-consuming, and subject to disagreement. Therefore, why should scarce time and money is spend on it when they could be spent on more positive promotional activities? The answer, of course is that evaluation will help you and the individual company to:

- decide whether to participate in the same exhibition in the future;
- decide whether to exhibit the same products;
- identify both failings and possible future improvements in planning publicity, stand design, staffing, stand, location, and management;
- identify good and bad subcontractors for stand construction, cleaning, and interpreting; and
- decide if money could be spent more effectively on other forms of promotion.

#### 1. Setting Objectives

<sup>34</sup> To provide exhibitors with a complete schedule of their obligatory commitments or important events, you should give the dates, times and places of exhibitors' briefing meetings, press conferences, hospitality events, film shows, and seminars, National Day events, and visits of VIPs to the stand, when known.

It is impossible to evaluate anything unless you know your objectives. An exhibition might, for example, have one or more of the following objectives:

- 1.1. to obtain firm orders amounting to or exceeding a certain value;
- 1.2. to identify, to select and to appoint agents or distributors; and
- 1.3. to familiarize participating staff with consumer and trade reactions and to suggest ideas for product improvement and future marketing strategies;

On the basis of such objectives:

- 1.4. the participation can be planned and organized with the objectives(s) in view; and
- 1.5. the participation can be evaluated in relation to how well the objectives have been achieved.

## **2. How Do You Evaluate?**

The purpose of evaluation is to improve future performance. The most important evaluation technique is the evening meeting, which should take place every day during an exhibition. At this meeting all stand staff can evaluate the day's performance and make suitable changes to improve, results the next day. An evaluation should, where possible, provide answers to the following question.

- 2.1. What is the value of firm orders taken?
  - 2.1.1. Problems: Some orders may not be profitable and customers and their suppliers often use exhibitions to place orders that they would have made even without the exhibition.
- 2.2. What value of orders is likely to be placed within the next 12 months as a result of the exhibition?
  - 2.2.1. Problems: estimates are likely to be over-optimistic. A longer-term evaluation must be made to assess the lasting benefits and to assess the reliability of preliminary estimates as an evaluation device.
- 2.3. How many new accounts were opened?
  - 2.3.1. Problems: if stand staff are too anxious to obtain orders from new customers they may upset future marketing plans, particularly in new markets, by accepting business from unsuitable intermediaries, poor credit risks, etc.
- 2.4. How many contacts were recorded? These should be ranked by potential; categorized by whether they are merely asking for information, requesting a firm quotation, or awaiting confirmation of an order; and by their ability to make a decision.
  - 2.4.1. Problems: contacts on their own are valueless. Over-emphasis on the number of contacts can lead staff to neglect sales prospects in favor of filling out more inquiry forms.
- 2.5. How many people visited your stand?
  - 2.5.1. Problems: visitors may be prompted by idle curiosity, by their desire for free samples, by their need to sit down, or by their interest in a particular dramatic exhibit. Numbers alone are of little value.

- 2.6. What did the following groups think about your exhibit?
  - 2.6.1. Individual exhibitors – if it has been a collective exhibition.
  - 2.6.2. Stand staff.
  - 2.6.3. Actual and potential customers.

The answer to this question is best obtained by hired professional researchers but such a formal survey is unlikely to be appropriate except for a major prestige-type national exhibit. However, in every exhibition, some attempt should be made to obtain opinions from each of the above groups, at least informally. Exhibitors should be asked to fill out a questionnaire designed to elicit their opinions. Problems: informants may be unwilling to appear critical. Professional surveys are costly. Stand staff in particular may regard unfavorable comment as reflecting on themselves.

- 2.7. How did your exhibit compare with previous participations, other exhibits, or other methods of presentation?
- 2.8. Cost comparisons with other forms of promotion.<sup>35</sup> Take particular care that like is compared with like, i.e., rice is compared with rice, not with maize, cashew, and/or cassava.

### 3. Common Fallacies

- 3.1. “Our advertising campaign cost US\$100,000 and generated 1000 trade inquiries, the fair cost US\$200,000 and resulted in only 750 inquiries. Clearly advertising is better.”

Inquiries from advertisements may be less serious and are certainly less informed than those received at fairs.

- 3.2. “Our sales representative opened 100 new accounts with orders totaling US\$500,000 on his recent trip, which cost US\$50,000. At the fair, 200 new accounts placed orders for a total of US\$2,000,000. Our participation cost US\$100,000. Fairs are clearly a more economical form of promotion.”

The sales representative presumably selected accounts that would market his/her products in the most effective way; the new account opened at the exhibition may have been casual purchasers with no long-term commitments.

### 4. Summary

While no means of evaluation is infallible certain characteristics will ensure a measure of accuracy. The evaluation must be.

- 4.1. Systematic: not haphazard.
- 4.2. Comprehensive: not confined to one or two items of the programme operation.
- 4.3. Rigorous: not based on one or two samples.

<sup>35</sup> The exhibition must be evaluated in comparison with all other forms of promotion, such as missions, advertising, or sales visits. Only in this way will resources be deployed as effectively as possible.

- 4.4. Consistent: the procedure should not change from year to year from exhibition to exhibition.

## **M** Reporting the Event

Careful reporting is vital for evaluation. Reporting requirements differ Among organizations, but whatever form is used, it is important to avoid certain dangers.

- There may be a need for public relations reports, “end-of-show telegrams” and other publicity devices. These should not be confused with evaluation reports.
- Authorities and the trade naturally want to hear about results quickly. To meet their requirements, you should write daily interim reports, and one immediately after the exhibition. However, a full evaluation report cannot be made until at least six months, and more likely one year, after the exhibition.
- When the time is appropriate for a proper evaluation, there may be little interest in something that happened many months before. However, data on long-term results must be collected and final results must be described for the consideration of senior management. The evaluation report will be important in this context.



### **Your report should carry.**

- A statement of the objectives of the promotion.
- A brief description of what was done.
- Your assessment of the degree to which the objectives were achieved. Use as many evaluation methods as are appropriate. A questionnaire filled in by exhibitors at the end of a fair is a useful method of evaluation.
- Your conclusions in terms of lessons learnt and proposed future activities.

The collective report should summarize the individual details. It is important that you relate each exhibitor’s achievement to his/her individual objectives. Provide a confidential evaluation of each exhibitor’s suitability for participating in similar future events. This will help to improve the selection procedure. There should be an overall stand objective even in a collective exhibition. Your final report should always state this and assess how well it has been achieved.



## Chapter

# 14

## INVESTMENT PROMOTION

In order to carry out your role in export promotion, you should be well informed on business activities and practices in your territory. You will thus be extremely well qualified to carry out investment promotion activities, whether or not these have been formally assigned to you.

Foreign Direct Investment (FDI) in our country contributes to the production of new goods and services for export and to replace imports. It leads to the transfer of technology and the development of management skills. It thus strengthens our country's industrial base, creates jobs and diversifies economic activities. Such diversification lessens the country's dependence on a few export products and reduces the country vulnerability to sharp swings in commodity prices and unpredictable international economic events. This chapter aims to familiarize you with the investment promotion activities that you may be called upon to perform. Whether or not you are assigned specific investment promotion responsibilities, you should be on the look-out for such opportunities and keep the possibility of FDI in mind in all your dealings, particularly with foreign suppliers. This aspect of your work can be particularly important if you are posted in an industrialized country.<sup>36</sup>

### A

#### Definition of Terms

“Investment promotion” can be defined as facilitating contact – and eventual negotiations – between suitable foreign investors in your territory and the CDC, public and/or private, with a view to establishing wholly foreign-owned or joint ventures for industrial or other purposes.

The term “foreign investment” covers financial and contractual arrangements between foreign interests and our national enterprises, public or private, for the production of goods or services, or the completion of capital projects, in our country. Investment arrangements frequently call for the transfer of foreign capital and the sale of part of the ownership (equity) of our national enterprise. More often, however, they cover production under licensing agreements, which involve no transfers of equity. Foreign Direct Investment (FDI) and Foreign Indirect Investment (FII) differ on several points. FDI, which may be made by a foreign company or government, involves the ownership of physical assets like land, buildings, factories, and machinery. The partner in our country may be an industrial or other corporation established or recognized by the RGC. FII, on the other hand, sometimes called portfolio investment, does not involve ownership of physical assets but simply investment

<sup>36</sup> You will probably not be directly involved in the technical aspects of investment negotiations. These will usually be taken over by the Council for Development of Cambodia (CDC), in which you may have alerted to an investment prospect. The procedures discussed in this Part are closely related to those described in Part Three, “Commercial Intelligence and Reporting”, and should be considered in conjunction with the latter.

through the acquisition of publicly issued corporate stock shares or bonds. It does not involve joint control or partnership between the foreign and domestic entities concerned. Indirect investment may also include long-term funds raised through the sale of government bonds or debentures.<sup>37</sup>

## **B** Forms of Foreign Direct Investment

Foreign corporations are often prepared to invest abroad to achieve certain objectives. For example, corporations may wish to expand world markets for their products or to earn new income from their technology, patented processes, knowledge, technical equipment, software, management methods, etc. Corporations actively seeking to expand their operations abroad may have conducted some research on the countries of immediate interest to them, including Cambodia. Those that are already aware, through your efforts, of the investment opportunities in our country will take the initiative to investigate these prospects or to ask for your help. Other corporations may not yet have given serious thought to investing abroad. Those that are totally oriented to the domestic market may not be ready or willing to enter into complex offshore operations. Others, however, may simply have failed to realize that the solution to some of their company's production problems may well lay in co-production or investment arrangements in a developing and/or least developing country.

When the foreign investor is ready to contact potential partners in our country, what are the different forms of investment he/she is likely to consider?



**There are three basic forms of foreign investment<sup>38</sup>**

### **1. Joint Ventures**

“Joint venture” is the term generally used for an arrangement between foreign and domestic investors establishing a new corporation for the purpose of producing goods or carrying out other operations (e.g. construction and the provision of technical services). The parties<sup>39</sup> negotiate the articles of incorporation and the amount of capital each is to put into the joint venture. Control of the new corporate entity usually lies with a board of directors whose members are appointed by the partners according to their shares in the capital investment.

In most cases the investor will seek a majority interest in the venture so as to optimize his/her control of operations and his/her share in eventual profits. Negotiations over the degree of control will revolve around how much capital or other assets he/she and the local partner are each prepared to contribute to the undertaking. The end result being sought is a joint venture that will ensure each partner a mutually agreed share in control over corporate policy and management and in the company's profits or losses.<sup>40</sup>

### **2. International Subcontracting**

<sup>37</sup> This chapter is concerned solely with direct investment.

<sup>38</sup> It should, however, be stressed that there are no rigid rules and that partnership agreements may incorporate variations to suit particular purposes.

<sup>39</sup> Could be an individual, partnership, and/or corporation.

<sup>40</sup> Three or more partners could be involved in large or complex joint ventures.

Under international subcontracting arrangement, a contractor foreign origin or under foreign control, subcontracts – part of – the contracted work to a subcontractor. The goods so produced will be shipped to the contractor for incorporation in the final product, or if they are finished goods, will be marketed by the contractor. In such operations, the goods are produced on terms and under specifications laid down by the contractor and remain under its control. The subcontractor will acquire from the principal the essential processing technology, machinery, equipment, testing apparatus for quality control, documentation, assistance in training skilled personnel, and managerial methods.

The modalities for making the latter inputs available are negotiated when the contract is drawn up. The contractual provisions may require the contractor to furnish and finance production machinery and technical equipment for the subcontractor's use.

### 3. Manufacturing Under License

Under this arrangement, the rights to manufacture a product are acquired from the foreign owner of the patent (or copyright process) under what is called a licensing agreement. The foreign owner (the licensor) grants the buyer/producer (the licensee) the exclusive right to manufacture the product and to sell it in both the local market and specified export markets.

Under a licensing agreement, the licensee pays for the manufacturing rights, usually in the form of a royalty. The royalty may be a fixed percentage of total sales made (at factory price) or a specific sum of money per unit produced.

As with subcontracting, the licensor will normally undertake to furnish all relevant technology, equipment and technical consulting inputs needed to start and to maintain production.



**The distinctive features of the above three basics types of investment are the following.**

- 3.1. All three ensure the acquisition of foreign technology and the upgrading of industrial capabilities.
- 3.2. Joint ventures bring in investment capital in cash and other forms and provide for local joint ownership of the means of production as well as the sharing of profits and marketing rights.
- 3.3. International subcontracting in rare cases may involve some financing of initial costs by the foreign contractor but no transfer of capital. The capital is raised by the subcontractor. Purchase of factory output is guaranteed by the contractor who keeps title to the goods and export marketing rights.
- 3.4. Manufacture under license is financed by the licensee, who owns the goods produced. He/she has exclusive domestic marketing rights and frequently also has selling rights in specified export markets.



### **The Role of Commercial Representative**

If you are responsible for investment promotion at your post, you must be carefully briefed by the MoC or TPO, the CDC, and other interested agencies at home on:

- the RGC latest foreign investment directives;
- investment promotion targets;
- sectoral priorities; and
- services available and incentives offered to foreign investors.

You will have to keep abreast of changes in the above matters. If possible arrangements should be made for you to receive a brief but thorough practical training on how to present a project proposal to a potential investor. The following are some of the steps you can take to promote direct investment while carrying out your trade promotion activities.

## **1. Information**

- 1.1. Establish an industrial and technical information system so as to keep informed about local industry, technology and technical services of likely interest. Build up your commercial library's collection of industrial and technical directories, appropriate periodicals, company annual report, etc., originating from, or related to, your post territory.
- 1.2. Familiarize yourself with the Investment Promotion Services (IPS) of the United Nations Industrial Development Organization (UNIDO) and make use of information from this source as appropriate – [see annex 6](#).

## **2. Contacts**

- 2.1. Initiate and maintain contact with selected financial and industrial leaders in your territory, to promote interest in investment in our country.
- 2.2. Seek opportunities to address business groups, chambers commerce, etc., with a view to explaining the investment environment and related prospect.
- 2.3. Develop contacts with industrial, research, financial and other professional and business institution or associations selectively subscribe to their publications.
- 2.4. Establish contact with host country government ministries concerned with economic and industrial cooperation or with administering export licensing or foreign exchange controls.

## **3. Reporting**

- 3.1. Ensure that your investment promotion activities (and the related level of response in your territory) are adequately covered in your annual work programme and annual report.
- 3.2. In preparing basic country surveys, market reviews and other periodic reports, note information of interest for FDI promotion purposes and see that it reaches all others concerned at home. Look for links between trade and investment operations in the context of bilateral agreements or compensation arrangements. Include factors which may encourage or discourage investment abroad. Be aware of their effect on trade and FDI promotion. A change in foreign exchange controls affecting transfers of capital abroad is an example.
- 3.3. Keep our authorities informed on local business practices that may assist them in contacting and negotiating with local firms or institutions.
- 3.4. In monitoring foreign competition in your territory's markets, you should cover foreign competition for FDI

#### 4. Market Research

When you conduct export market research, be on the look-out for data or leads that may be useful for FDI promotion.

 **Conduct the research required to answer inquiries from home on.**

- 4.1. Suitable companies to contact for a particular project or to fill a specific industrial development need.
- 4.2. Sources of capital or technology for development plans covering designated economic sectors.
- 4.3. The business reputation, technical capabilities, and financial status of a prospective investor.

Advise on and facilitate the opening of negotiations with interested investors. Respond to investment inquiries initiated by local companies.

#### 5. Publicity

Promote public interest in our country as a potential industrial both at home and abroad. Disseminate information on FDI opportunities at home in any newsletters or articles you prepare for the purpose of promoting our country's exports.

### **D** Evaluation of Investment Projects

Familiarize yourself with the basics of project development and evaluation so as to appreciate the challenges which both sides have to resolve before they can reach a decision on a joint venture undertaking.

 **The project development cycle consists of three phases.**

- ▶ Pre-investment.
- ▶ Investment.
- ▶ Initiation of operations.

The pre-investment phase is usually broken down into three stages, each of which terminates in a separate study as follows:

❶ Identification of investment Opportunity and first formulation of the project	➔ Opportunity or pre-feasibility study
❷ Project elaboration	➔ Feasibility study
❸ Evaluation of final project	➔ Final evaluation report

Once a project idea has emerged, the originator's first promotional activity may be to look for a financial partner who will share the cost of the opportunity study. If this study finds the project promising, the next step is to look for a partner to finance or partly finance or partly finance the feasibility study. If the feasibility study is positive, promotional activities will

turn to the search for valid potential investors in the project. If the search is successful, the interested investor will require a final evaluation report and will normally participate actively in its preparation.

Throughout the above process various parties may be involved, such as the CDC or commercial bank, or alternative partners. Each party will need to be provided summaries or profiles of the particular aspects of each of the above studies with which it is mainly concerned. For example, the Ministry of Economy and Finance (MEF) will want to know about the project's expected economic benefits and impact on foreign exchange earnings; the banker or lender will be concerned chiefly with financial analysis and loan security; while the investor will primarily be assessing profitability and risk factors. The profiles should provide the essential data and analytical tables which will enable all parties to agree at the negotiating table.



## Chapter

# 15

## IDENTIFYING AND BRIEFING POTENTIAL SUPPLIERS

Foreign exchange save is the foreign exchange earned. Unorganized import procurement is increasingly recognized as the cause of a serious drain on the foreign exchange holdings of the developing and least developing countries. As the commercial representative in a post territory that is an actual or a potential important supplier of our country's import requirements, you may be called upon to identify suppliers and to ascertain their commercial standing and general reliability. You may be required to undertake preliminary negotiations for, and to take part in, purchasing missions from home and after the contract is awarded, to assist your procurement agency by providing various services in connection with the contract or monitoring of purchase contracts. "For the purpose of this handbook, it is assumed import procurement is given in your duties."

### A

#### Setting Your Priorities

Import procurement, as part of the total trade picture, cannot be dealt with in isolation. Cost-effective, efficient import procurement, if included in your duties, should be given the same priority as export promotion. You should pursue a balanced approach, and manage your time and activities in such a way as to maximize the benefits our home country would gain from your efforts in both marketing and purchasing.

In seeking this balance, you should be guided by the following considerations.

- The overall economic importance of the import item to home country.
- The competitive position of the import item from the post territory vis-à-vis supplies from other sources.
- The presence of representatives of our home country's importing organizations in the post territory.

Once again, there is no substitute for knowledge of.

- Our country's requirements.
- Our country importing organizations' import patterns, policies, procedures, and purchasing methods.
- The post territory's exports of actual or potential interest to our country, as well as its regulations on, and procedures for, exporting to our country;
- The post territory's imports of products of import interest to our country and its purchasing methodologies and mechanisms, prices paid, etc., to enable you to brief our country importing organizations on the matter;

- The overall marketing pattern for potential imports into our country, world-wide supply, and technological developments affecting these products.

You should also learn how to identify and to evaluate sources of supply, and understand contracting procedures. When our importing organization has no representative in your territory, you should act as the channel for information flows in both directions.

## **B** Why Import Procurement?

Unplanned import procurement can be very wasteful. It has been estimated that, on average, developing and least developing countries pay out as much as 10 to 15% in additional foreign exchange because of poor import management.

There are many reasons for this including poor procurement planning; fragmentation of purchasing responsibilities; cumbersome and outdated purchasing procedures; and shortage of skilled procurement personnel. The most important reason is a lack of knowledge; little or no information on product specifications; prices; present and future supply conditions; lack of insight into commercial practices and contracting procedures; unfamiliarity with shipping procedures and the global freight market; and so on.

Your objective should be to provide our importing organization<sup>41</sup> with timely and reliable information and intelligence and thus to help it to buy:

- The correct quantities.
- To the desired specifications.
- At the most opportune time.
- At the most competitive price.
- Under the best possible supply conditions.

## **C** Identifying Suppliers

One of your primary responsibilities will be to identify well-established low-cost producers of quality goods and services of actual or potential interest to our country. You should then, brief them on how to do business with our country.

To identify suitable suppliers, you should consult.

- The local government's export promotion agency;
- The chamber of commerce;
- Trade and industrial associations;
- Industrial and commercial directories;
- Commercial/Merchant banks and other financial institutions;
- Specialized international and regional organizations and their publications;
- Specialized technical and commercial publications in the territory;
- Catalogues of trade fairs and specialized exhibitions; and
- Local users of the products and services of interest to our country.

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<sup>41</sup> It is assumed our country importing organization has an efficient import management system.

Your search for suppliers should be a continuing one, the objective being constantly to identify new suppliers of possible interest to our country, and to weed out those who have no interest or have become inactive and/or non-competitive.

## **D Briefing Potential Suppliers**

Aside from servicing import requests from purchasing organizations from our country, you will be expected to provide information and guidance to exporters in your territory who have already established contact with such organizations or are keen to develop new trading relationships. These exporters will normally respond enthusiastically to any initiative on your part to make them aware of sales opportunities in our country. Such contacts will create goodwill towards you and towards our country import/export communities. They will also greatly facilitate your export promotion task.

In order to brief suppliers in your territory, you should be thoroughly acquainted with our country's import policies and procedures, including its import regime and associated rules and regulations. You should be in regular contact with our country's actual and potential importers and ensure that you receive frequently updated lists of products imported and approximate annual requirements. You should also be familiar with our country importers' procurement methods, specifications and quality standards, and current import sources.

You should encourage reputable suppliers of goods and services of interest to our country to respond to trade inquiries, calls for tender, etc., from our country purchasing organizations.<sup>42</sup>



### **To this end you should provide prospective suppliers with the following.**

- ▶ General and statistical information of our home country's economy, industry, economic infrastructure, and development plans relevant to its import programme.
- ▶ The policy framework and the demand pattern for imports.
- ▶ Information on current sources of imported supplies, quantities required, and specifications.
- ▶ Detailed information on business practices at home, procurement and distribution channels, and related trade practices.
- ▶ Names of authorized importing organizations and the goods or services they require include detailed specifications.
- ▶ Information on how to:

<sup>42</sup> You may be expected to: examine and take action on a purchase indent or a requisition; draw up a short list of suppliers offering competitive prices; obtain a quotation through inquiries, calls for tender, etc.; evaluate different tenders, quotations, offers, bids, etc.; or review procurement benefits and interview suppliers' representatives. You may be asked to distribute purchase inquiries, tenders, and other invitations covering the supply of goods and services; to encourage positive and competitive responses; to follow up bids and counter-offers; and to prepare for, and participate in, procurement negotiations. You may be invited to assist our country importers' negotiating team and to participate in negotiations leading to a procurement contract. You may also be called upon to advise the importing enterprise on its negotiating strategy in order to reduce prices and to obtain more liberal servicing and financing terms without added cost. Many suppliers offer special discounts to bulk buyers and to regular or favored customers. You might be able to help secure special rebates or discounts as a result of your intimate knowledge of local practices. You would provide similar advice when the importing enterprise invites a supplier from your territory to visit our country for negotiations. If you cannot return home to take part in the negotiations, you should provide the importer with a written commercial brief.

- register as suppliers and thus to be placed on mailing lists for purchase inquiries and calls for tender, etc.;
  - visit our country on business; and
  - participate in our country's trade fairs and exhibitions.
- ▶ General guidance on how to promote commercial relationships with our country's procurement agencies.



## Chapter

# 16

## TERMS OF DELIVERY

This chapter provides the mechanics of the export transaction. Many of the mechanics reviewed may not, at first glance, seem to be of direct relevance to your work. Nevertheless, you must have some insight into the various elements of the export transaction and understand the vocabulary so that you can discuss trade problems with our home country's exporters and foreign buyers, grasp the essential points of a trade dispute, negotiate with potential exporters to our country, and so on. This Part begins with an overview of export procedures, followed by an analysis of terms of delivery, with emphasis on the International Chamber of Commerce's universally accepted INCOTERMS. It then examines the subjects of cargo insurance, export documentation, transport of goods, packing for export markets, costing, pricing and price quotations, and concludes with a study of problems associated with payment, collection, export financing, and foreign exchange.

### A Overview

When only a few nations were involved in exporting, the methods used were simple. But as more and more countries began to trade, standardized rules had to be developed. These have evolved over the centuries and today a number of general export procedures can be identified.

#### 1. Quoting a Price

Quoting for orders in the home market is easy. The producer knows what it costs to produce the goods. He/she also knows how much the overheads are (rent for the factory, wages for the staff, delivery costs, etc.) and can quickly calculate a selling price that will yield the necessary return. For the export market, however, is much more difficult to quote. The manufacturer may not be familiar with the competition and other conditions in a distant export market. He/she must also take into consideration the additional costs of packing, transportation, insurance, credit, agent's commission and so on.

#### 2. Export Documentation

The exporter must know what export documents are required by his/her government and by other governments.

#### 3. Physical Distribution

Selecting the right mode of transport is vital for an exporter, who must seek the cheapest method of getting the product to the export market. But cost is not the only factor to be taken

into account. If the exporter sells fashion shoes and the cheapest mode of transport is a ship that takes months to complete its voyage, he/she may decide to pay more to have the goods delivered quickly. Fashion does not wait for exporters.

Modern long-distance trucks or rail freight cars may be more attractive than transport by ship or air. An exporter must avoid using traditional methods simply because “it has always been done that way”. Whichever mode of transport an exporter chooses, he/she will need to take into account the terms of delivery of the contract.

## **B** Terms of Delivery

### **1. Overview**

When an exporter quotes a price for a product he/she is making an offer. If this offer is accepted by the customer, an export contract is formed. This contract specifies the terms under which the goods are to be delivered.

The quoted price must take into account the delivery costs, so our country exporter must know at an early stage to what point he/she will be delivering. A normal procedure is for the exporter to quote FOB. These letters stand for “free on board”, and mean that he/she must deliver the goods on board a ship at a port in our country. The exporter will pay for delivery up to that point and the customer pays for the rest of the voyage.

The terms of delivery also make it clear who has responsibility for the goods if anything happens to them. Under FOB terms, the exporter has responsible until the goods are over the ship’s rail, for example. The customer takes responsibility from then on.

### **2. Insurance**

Goods should be well packed and clearly marked so that they are no easily damaged or lost in transit. But even when these simple precautions are taken, accidents can happen. In addition to the risk of fire or leakage there is always the threat of pilferage. The vessel carrying the goods may sink or be badly damaged so that some goods have to be thrown overboard; the exporter’s goods may be among, them. It is vital, therefore, that your exporter understands and use insurance so that the potential losses from these risks are minimized.

### **3. Terms of Payment<sup>43</sup>**

An exporter must make as certain as possible that he/she will receive payment and that this is not delayed beyond the terms agreed upon. When customers are thousands of miles away in a different country, it is difficult to follow up on bad debts. There are several safeguards an exporter can take. First, he/she can make sure that the customer is creditworthy. Next, the exporter can ask the customer for a letter of credit (LC), a transaction carried out by two banks, one in the customer’s country and one in the exporter’s. There are other terms of payment to suit different circumstances.

### **4. Financing the Export Order**

<sup>43</sup> Terms of payment are important here. The exporter must be able to time cash inflows so that he or she remains solvent while fulfilling the order.

An exporter should not -accept a large order if he/she cannot fulfill it. He/she must check that the necessary cash flow is available and sufficient to finance the contract, bearing in mind that he/she may not receive payment for the goods until some time in the future. In certain circumstances the exporter may be able to ask for payment in advance, but this is seldom possible. He/she will probably have to produce the goods and deliver them to the market before being paid.

## 5. Selecting Terms of Delivery

The terms of delivery may make all the difference between profit and loss. Selecting the right terms is therefore vital. When buyer and seller agree on terms of delivery, they are legally binding themselves to these vital aspects of the transaction.

- 5.1. Which costs are paid by the buyer, which by the seller?
- 5.2. Which documents the seller will obtain and at whose expense?
- 5.3. When the title to the goods and the responsibility for them pass from the seller to the buyer?
- 5.4. When and where the goods are to be delivered?

## 6. INCOTERMS<sup>44</sup>

Terms of delivery such as “ex works” and “free on board” have been developed over many years to fit particular circumstances. To clear up the confusion that arose from the use of these terms, the International Chamber of Commerce (ICC) drew up a set of standard terms and definitions in 1953. Revised most recently in 1980, these are called INCOTERMS, and indicate the division of costs and administrative responsibility between the exporter and the customer. Although internationally accepted, the terms are still sometimes interpreted differently in different countries. So care and clarification are necessary when using them. For example, a French customer may use the term CAF (coût, assurance, & fret) instead of CIF, although both mean the same thing. The various INCOTERMS are examined in annex 7.

INCOTERMS are normally known by their initials, as listed in annex 7, and are qualified by a place-name, e.g. EXW (export packing/marking), FOR (getting goods to railway station or truck) Kampala, FAS (transport to port and getting goods alongside ship) Singapore, FOB (getting goods on board and preparing shipping documents) Mombassa, CFR (freight cost – port to port) Lagos, CIF (marine insurance) Calcutta, EXS (putting goods at disposal of customer port of destination) Yokohama, EXQ (unloading charge at port of destination) London, DCP (payment of duties and transport to customers) or CIP (transport insurance) Islamabad, and so on. The obligations under these terms can be modified by mutual agreement. For example, the exporter may arrange insurance, freight or other charges on behalf of the customer with an FOB contract, but responsibility remains with the customer. There can also be a ‘mixed cost approach’ where, for example, an exporter accepts certain cost obligations by quoting FOB but actually looks after freight on the customer’s behalf.

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<sup>44</sup> A detailed review of the obligations of buyers and sellers under INCOTERMS is given in chapter I, pages 24-26, of the *Legal Aspects of Foreign Trade*, published jointly by the International Trade Center/ International Chamber of Commerce, Geneva, 1984.



**Flexibility is essential in interpreting INCOTERMS. However, the exporter's general responsibilities under some of these terms are described below:**

- 6.1. Under EXW, the exporter has no further legal responsibility after he/she has made the goods available, at his/her premises (works/ factory), to the customer.
- 6.2. Under FOR and FAS, the exporter is responsible only for transportation to the railway or port.
- 6.3. Under FOB the exporter has only to deliver on board the ship designated by the customer. He/she is not concerned with freight and insurance.
- 6.4. Under CIF, the exporter has to pay for all freight and insurance to the port of destination. The exporter also carries the risk of fluctuations in freight rates unless he/she builds a 'freight escalation' clause into the CIF contract. The customer, on the other hand, has no responsibilities until he/she has received all the necessary documents, at which time he/she can collect the goods at the docks at the port of destination.

## **7. Other Terms**

### **7.1. DAF**

Delivered at frontier ... is used in the same way as DCP or CIP except that the seller's obligations are fulfilled when the goods arrive at the frontier before going through customs.

### **7.2. DDP**

Delivered duty paid ... is used in the same way as DAF, but duties are charged to the seller. A special clause may be added after the words "duty paid", e.g., "exclusive of VAT and/or taxes".



## Chapter

# 17

## CARGO INSURANCE

### **A** The Need for Cargo Insurance

There are many risks to cargo while it is in transit. These include fire, storm, collision, pilferage, leakage, terrorism, and explosions. Goods traveling to another country must be insured against loss or damage at each stage of their journey, so that whatever mode of transport is being used, neither the exporter nor the customer will suffer any loss.

### **B** Who Should Be Insured?

Under the law, a person may purchase marine insurance on a shipment only if he/she has an insurable interest in it. Either the exporter or the customer will be liable for the goods at any one point in the journey. The liabilities laid down in the terms of delivery normally conform to when the title of ownership to the goods passes from the exporter to the customer. This is known as the “passing of risk”, and INCOTERMS are very useful in this respect.

For example, in an FOB contract the transfer of ownership is at the point where the goods pass over the ship’s rail. In theory the exporter insures the goods up to that point and the customer takes responsibility from then on. (In practice, the customer normally buys insurance to cover the whole journey in FOB, FAS and CFR contracts, from the exporter’s warehouse to the final destination.) Under a CIF contract, the exporter takes out cover against the risks customarily covered in that particular trade. He/she is not required to do more - unless both parties have agreed to it. These rules are of course subject to local usage. Whatever allocation of responsibility is agreed on, it must be absolutely clear and cover any emergencies. Even when an exporter’s responsibility ends when he/she leaves the consignments at the dock (FAS), it may be wise in many cases to take insurance out on the whole voyage, because his/her financial stake in the “venture” continues until he/she is actually paid for the goods. If the goods are damaged in transit, the customer may be unwilling or even unable to pay for them.

To avoid any such risks, the exporter should make it a general policy that the conditions of sale make him or her responsible for providing insurance – even in FOB contracts. If this is not possible owing to local custom, an exporter can purchase special contingency insurance which will make up any shortage in claims paid by the customer’s insurance. It should be noted that “marine insurance” is a misleading term and can be extended to cover transportation over land or on inland waterways.

## **C** International Insurance Contracts

Faults to avoid.

- ▶ Insufficient insurance cover (in financial terms).
- ▶ Insurance does not cover risks mentioned in the documentary credit.
- ▶ Policy is not issued in the currency of the documentary credit.
- ▶ Policy is not endorsed by the insured and/or signed by the insurers.
- ▶ The certificate or policy bears a date later than that of the dispatch or shipment, except where transfer from warehouse to warehouse is indicated.
- ▶ Goods are described incorrectly.
- ▶ Alterations are not authorized.
- ▶ Policy is not in transferable form when required.
- ▶ Carrying vessel's name is not recorded.
- ▶ Policy does not cover trans-shipment when this is indicated in the bill of lading.

In addition, if the insurance is required by the documentary credit, the insurance document must, as laid down in the ICC's Uniform Customs and Practice for Documentary Credits (UCP).

- ▶ Be that specified in the documentary credit (article 35, UCP).
- ▶ Cover the risks specified in the documentary credit (article 38, UCP)
- ▶ Be consistent with the other documents in the identification of the voyage and description of the goods.
- ▶ Unless otherwise specified in the documentary credit:
  - be a document issued and/or signed by an insurance company or its agent, or by underwriters (article 35, UCP);
  - be dated on or before the date of shipment as evidenced by the shipping documents, or establish that cover is effective at the latest from such date of shipment (article 36, UCP); and
  - be for an amount at least equal to the CIF value of the goods, and in the currency of the credit (article 37, UCP).

If you serve in a country where insurance in the local insurance market is compulsory, you must acquaint yourself with the terms of such policies. Visit the relevant insurance office, collect copies of all the insurance policies offered, and obtain any other information, such as compulsory deposits for payment of premiums, or similar rules.

## **D** How to Insure?<sup>45</sup>

An insurance policy is issued when goods are insured, but it is also usual to issue a "certificate of insurance" which is used as evidence of insurance. A policy is a contract, a legal document, and principally it serves as evidence of the agreement between the insurer and the person taking out insurance. The marine insurance policy or certificate forms part of the shipping documents. A policy is also used as collateral when an exporter obtains an advance against a bank credit.

<sup>45</sup> Insurance is normally arranged by an insurance broker or an insurance company.

Individual policies for a single shipment are seldom used by companies regularly engaged in foreign trade. Exporters normally insure under long-term policies known as “open cover”. These contracts may run for a fixed time or indefinitely until cancelled. As evidence of insurance of each shipment, the insurance company or insurance broker can issue a certificate of insurance, which gives all the information contained in an insurance policy. Open cover gives the exporter automatic, continuous coverage. It also saves him/her the trouble of having to arrange for protection every time he/she makes a shipment, and he/she always knows the exact insurance costs. This makes it easier for him/her to quote a landed sales price.

On a CIF contract, the exporter sends the certificate of insurance to the customer. ✓It is common practice to insure for an amount 10% higher than CIF value of the goods, to take care of the costs involved in replacing goods, delays in payment, etc. The goods may be insured for even higher amounts – for example, to cover loss of import duty paid on products which subsequently disappeared.

## **E** Kinds of Coverage

In buying insurance, the object is to buy as much protection as is necessary or prudent, at as low a cost as possible. To do this, one has to, know what risks can be covered, and to decide how much coverage is needed. An insurance policy defines its coverage in terms of the nature of the loss or damage, the extent of the loss or damage, and the conditions under which it occurred.

For example, sea-water damage is a major risk and is covered – to some extent – by all marine policies. However, some policies may pay for sea-water damage only if the loss is total or if the vessel has been stranded, sunk, burnt, or in a collision. Other policies may be more inclusive, and pay for partial sea-water damage caused not only by such calamities, but also by heave weather (a storm, etc.).

Generally, the specific risks or perils covered by a policy are not consolidated in a single paragraph but are dispersed in separate clauses. In the case of raw materials, policies sometimes do not fully define the coverage, and claims are settled according to the prevailing custom of the trade.

## **F** “Average” Terms

To a great extent, protection under a marine insurance policy is defined under “average” terms. The word “average” means partial loss. “Partial loss”, in turn, can mean the total loss of part of the insured cargo, or simply damage to all or part of it.

- Particular average is a partial loss suffered by part of the cargo.
- General average is a loss that affects all cargo interests on the ship itself. General average has been defined as ‘a partial and deliberate sacrifice of the ship, freight, or goods, undertaken for the common safety of the adventure in time of peril and/or extraordinary expenditure with the like object’.

The idea of general average liability is to spread the losses suffered by some parties Among

all parties to the voyage. If, for example, a ship is in danger of sinking in a storm and some of the cargo is thrown overboard to save it, the resulting loss is considered “in general average”. The value the lost goods is distributed Among the parties to the voyage, i.e., all cargo owners and the ship-owners. Each is required to pay a share of the damage including those whose cargo may not have been lost or damaged.

Accidents often result in both general average and particular average losses. Take the example of a fire in a cargo hold. The ship’s crew puts out the fire with water. Some of the cargo in the hold is damaged by the fire itself. This is a particular average loss. If the owners of the fire-damaged cargo are insured against this kind of peril, they will be paid for the loss by their insurance company. But cargo in the hold has also been damaged by the water used to put the fire out. This is a general average loss. Whether or not the owners of the damaged cargo are insured for this kind of damage, they will be largely reimbursed for the loss by contributions from all the other cargo owners and from the ship-owners.

## G

### Types of Insurance

The insurance coverage that can be purchased varies widely. The three most important types of coverage are the following:

- FPA (free of particular average). This is the minimum coverage in general use. It covers losses resulting from the total loss of a ship or aircraft. Partial loss is not covered, except to a limited extent and in particular circumstances; the partial losses covered and the conditions of coverage vary according to national practice.
- WPA (with particular average). Insures against damage to goods in transit from causes other than damage to the ship. Partial loss is normally covered with a percentage franchise, i.e., the insurance covers losses above a stated percentage of the value of the insured cargo. In practical terms, WPA provides protection against damage from sea water caused by “heavy weather”.
- All risks. Insures against most risks except risk of *force majeure*, unless the exporter has specifically asked for this to be included.

Additional specific risks may be covered by additions to the FPA and WPA clauses. These include not only maritime perils, but such risks as damage from hooks, oil, rain, bilge or fresh water, theft, shortage or non-delivery, sweat, contact with other cargo, leakage or breakage. A variety of clauses are used to cover certain goods against special risks, such as the Institute Provisional Value Clause for grain covers, the Institute Replacement Clause for machinery, the Skimmings Clause for coffee and cocoa, the Labels Clause for canned goods, etc.

All risks coverage is the broadest kind of standard coverage. But it does not, despite its name, cover all risks. It excludes coverage against damage caused by war, strikes, riots, etc., perils that can be covered by separate clauses. Moreover, insurance against all risks covers only physical loss or damage from external causes.

To understand the term, one must realize that in insurance a “risk” is something that may happen, but not something that must happen. It is, in other words, a possibility that may arise as a fortuity, or an accident. “It is not an inevitability.” This means that marine insurance does not cover the kind of damage that can be expected to occur under normal conditions because of the nature of the goods themselves – their “inherent vice”.

For example, if butter turns rancid during a voyage which is not interrupted by an accident, this damage would be considered a result of the cargo's inherent vice, and would not be covered by the policy. To give another example: the breakage of inadequately packed glassware would be due to its inherent vice – in other words, to internal rather than external causes – even if the packages were handled roughly. Inherent vice is specifically excluded from coverage in all risk clauses, and it is an implied exclusion in all insurance policies, whether or not it is specifically mentioned. Delay is another exclusion that is usually explicitly stated, but it is implied in all policies in any case. This means that loss resulting from the delay of goods in transit, e.g. spoilage or a fall in market value is not covered. In the case of especially sensitive products, such as meat or butter, it is possible to have the policy changed to cover physical damage caused by delay, but even then the delay usually must be the result of fortuitous, named perils.

A good rule of thumb is that an exporter should insure for the coverage accepted in his/her trade.



## Chapter

# 18

## EXPORT DOCUMENTATION

This chapter considers some of the documents required in export trade. Among the most important are the following.

1. Transport documents.
2. Export license.
3. Customs declarations.
4. Certificates of origin.
5. Health and sanitary certificates.
6. Certificates of inspection.
7. Quality control certificates.
8. Commercial invoice.
9. Packing list.
10. Customs invoices.
11. Consular invoices.
12. Certificate of insurance.

The first three (1 to 3) are a necessity in both the exporting and the importing country. The next four (4 to 7) are required mainly by public authorities in importing countries but have to be established under official or semi-official procedures in the exporting country. The last five (8 to 12) are either commercial or invoice-related documents, some of which must be certified by the consul of the importing country. Not all documents are required by all importing countries or for all goods. You should find out which ones are necessary in each case.

### A

#### Transport Documents

To transport export goods to their destination, the exporter must conclude a transport contract with a carrier. This will be evidenced by a transport document.

The bill of lading (B/L) is the traditional transport document for shipping goods by ocean transport. It serves as a contract between the exporter and the shipping line and covers the carriage of goods from the port of loading to the port of discharge. It also serves as a receipt for the goods and confers title to the goods to its holder. Also called a negotiable bill of lading, it is sent to the importer to enable him/her to claim the goods to which it refers. As a negotiable B/L represents the value of the goods, it has been the practice to issue more than one original (normally three) to ensure arrival of at least one set at its destination. Each original is negotiable, but the others are rendered void when one is surrendered. With more

reliable mail services, the risk of losing originals has been reduced and it is now recommended that only one original be issued.<sup>46</sup>

The main advantage of a sea waybill is that it eliminates dependence on the original bill of lading, which had to be presented to obtain release of the goods, a requirement that often caused delays and other problems at destination. With a sea waybill, the carrier hands over the goods to the party named as consignee.

Under the B/L procedure, once the goods have been loaded on board the vessel, the shipping company verifies the details on the B/L, signs it and hands it over to the shipper/exporter. The exporter must arrange for the original B/L to be sent to his/her customer, either by mail or – if documentary credit or collection is involved – through the bank concerned. Details required documents are stipulated in the documentary credit (letter of credit) and the exporter must ensure that such documents are made out properly.

The customer will have to surrender the original negotiable bill of lading to the ship's agent. If the transport document is a non-negotiable sea waybill, it is enough that the customers identify himself or herself as the consignee. The ship's agent will then issue a deliver, order, indicating the particular shed or warehouse where the goods are kept. On presentation of the delivery order, the goods will be handed over (subject to customs clearance release by the port authority upon payment of port charges, etc.). If the customer does not receive an original, negotiable bill of lading in time, he/she will be unable to take possession of the goods and a number of legal and other problems may arise, calling for letters of indemnity and resulting in additional costs, e.g. demurrage charges. With a sea waybill such problems are avoided.

Take the following example: an exporter had dispatched his goods but had forgotten to send the bill of lading to the customer. Without this document the customer was unable to obtain the goods at the port of discharge, and the goods had to be stored at the dock until the bill of lading arrived. The customer passed the resulting storage charges on to the exporter, maintaining that it was the fault of the exporter that the charges had been incurred. He sued the exporter for the costs of the storage, and won.

If cargo is transported by air, the air waybill is the internationally recognized transport document, equivalent in function to the sea waybill. No air transport document confers title to the goods; hence the air waybill presents none of the problems often associated with bills of lading. Air waybills are presented at the airline cargo office which issues a delivery order. Procedures are essentially the same as those for maritime transport. For surface transport, international rail and road consignment notes are used. These have functions similar to air and sea waybills.

Increasingly, multimodal transport documents are coming into use. Issued under various sets of international rules, these documents establish one contract to cover transport by different modes, thus avoiding the need to establish new transport documents for each mode.

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<sup>46</sup> The need for negotiable bills of lading is no longer as great as it was in the days of sailing vessels. At that time, goods were frequently sold during the long sea voyages and this was affected by transferring the title to the bill of lading to the new owner of the goods. Except for certain commodities, like oil and iron ore, such transactions are rare these days and it is now recommended that a non-negotiable bill of lading be used whenever this is possible. The agreed name for such a document is sea waybill although it is sometimes referred to as a liner or ocean waybill.

## **B** Export License

This is the first document an exporter may have to cope with. Where export licenses are required, the justification normally is the scarcity of certain commodities, i.e., raw materials and basic food products, the need to control export of arms and other military goods, concern for national security, protection of the national heritage (works of art, antiques, etc). Export licensing is often used as a vehicle for implementation of trade policy, e.g. economic sanctions against a country.

## **C** Customs Declarations

Customs authorities in all countries require exporters to fill out declarations to clear goods for export from their countries. These documents are presented at the place of export; in countries where there are no export duties, the main function of the declaration is to record the export transaction for statistical purposes.

## **D** Certificate of Origin<sup>47</sup>

This document provides evidence to the importing country that the product comes from a country that is entitled to preferential treatment under some arrangement, e.g. the generalized system of preferences (GSP). It may also be needed to prove that goods do not originate in countries on which the importing country applies sanctions or other trade restrictions. Special certificates of origin may be required in the application of quotas, e.g. or, textiles. It is very common for certificates of origin to be stipulated under documentary credits. They are normally issued by an official body, e.g., Customs, the ministry of trade, or a chamber of commerce.

## **E** Health and Sanitary Certificates

These certificates are often required by importing countries as condition for admitting animals and animal products, and plants and plant products. Veterinary, sanitary, and phytosanitary certificates are issued by an authorized body in the exporting country. They confirm that the products are free from disease or insect pests, that they have undergone fumigation treatment, etc. In the case of food products, the certificate may state that the product meets prescribed sanitary standards.

## **F** Certificate of Inspection

In certain countries, customers or authorities demand a certificate of inspection issued before shipment from the exporting country (“pre-shipment inspection”, “clean report of findings”). The purpose of this document is to ensure that the goods to be shipped conform to what has

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<sup>47</sup> In certain cases, an exporter’s declaration of origin is accepted; such a declaration can sometimes be included in the commercial invoice. A variant of this is a certified declaration, i.e. an exporter’s declaration certified by an official body.

been ordered, as regards quantity as well as value and quality. The exporter must obtain the prior agreement of his/her customer on who is to carry out such an inspection (often a prescribed control company) and who is to pay for it.

## **G** Quality Control Certificates

These certificates certify that the product conforms to certain technical standards. They are normally issued by national standardization bodies by the manufacturer concerned.

## **H** Commercial Invoice

This document is used mainly to claim payment for the goods delivered. It also provides the basis for assessing the value of a consignment for the purpose of calculating the ad valorem customs duty. In general, exporters can use their own invoice forms, but the contents must meet customs requirements in the importing country. Conditions of delivery (CIF, FOB, etc.) must be stated and amounts should be set out clearly, specifying costs of packing, freight charges, insurance and any other costs, as well as the price of the goods. Deductions, such as quantity rebates and payment discounts, should also be specified.

Some countries prescribe a set declaration to be signed by the exporter, mainly to certify that the invoice is true and correct, that no other invoice has been issued and that the value shown is the current market value of the goods. A standard wording for such a declaration has been recommended by the Working Party on Facilitation of International Trade Procedures of the Economic Commission for Europe, in cooperation with GATT<sup>48</sup> and the Customs Co-operation Council. It reads as follows: “It is hereby certified that this invoice shows the actual price of the goods described, that no other invoice has been or will be issued and that all particulars are true and correct.”

## **I** Packing List

If a shipment consists of numerous packages of differing contents and weights, it might be impossible to describe these individual packages in the invoice. In such cases, separate packing lists may need to be drawn up, specifying the contents, weight and dimensions of each package (or group of identical packages). The purpose of the packing list is to make it easier for the consignee to identify the packages, and also for Customs and other authorities to inspect the packages, either randomly or selectively.

## **J** Customs Invoices

In some countries, mainly those in the Commonwealth, Customs authorities require invoices to be prepared on a special form, known as a customs invoice. These invoices are often combined with a “certification of value”, printed on the back, in which the exporter confirms the invoiced value and states that there is no other understanding between him and the

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<sup>48</sup> Predecessor of the WTO.

importer. (The introduction of what is called “GATT<sup>49</sup> value” would eliminate the need for a customs invoice.)

## **K** Consular Invoices

A few countries – all in Latin America – still require consular invoices. These invoices often deviate from international standards on paper size and layout; they call for a detailed description of the goods and require indications of marks and numbers, weight, value of the goods and their origin, and a declaration on the accuracy of the invoice. They are often printed in the national language of the importing country and must be filled out in that language. Sometimes, only a typed original is accepted and the form must be error free.

Consular invoice forms normally have to be purchased from the consular representative of the importing country (sometimes they are available through export promotion agencies). Once completed, they must be legalized by the consul. Other documents, such as the commercial invoice, must usually be presented to the consul at the time the consular invoice is validated.

A variant of this system is the legalization of commercial invoices. No consular invoice form is required but the commercial invoice has to be presented and legalized (validated) by a consul. A fee is often required for the legalization or validation of commercial and consular invoices. The fees vary considerably but are often fairly high. Some countries charge a flat fee per set of documents whereas others chart a percentage of the value of the goods. The fees are normally paid to the consular representative when the document is legalized; alternatively, they are collected from the importer at the port of entry.

Consular invoices are the most cumbersome and difficult documents of all and must be prepared with great care. Repeated international recommendations call for the abolition of consular invoices and other consular formalities.

## **L** Certificate of Insurance

A certificate of insurance or an insurance policy provides evidence that the shipment has been insured against loss or damage during transport. If the agreement requires the exporter to arrange for insurance, the documentary credit arrangements will stipulate a certificate of insurance as a condition for payment of the credit. The insurance certificate will also be needed for claims in case of accident or loss.



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<sup>49</sup> *Ibid.*

## Chapter

# 19

## TRANSPORT OF GOODS

### A Introduction

Export goods may be shipped by surface (road, rail or sea) or by air. From the standpoint of developing and least developing countries, by far the most important method is sea, with air freight as an occasional option. Ocean freight is the most widely used form of transportation in international trade. It still has the attraction of being a cheap mode of transporting large quantities of goods over long distances.

Before goods can be shipped by either sea or air, the exporter or his/her shipping and forwarding agent must.

- ▶ Find out freight rates.
- ▶ Select a shipping line and a particular vessel.
- ▶ Book shipping space.
- ▶ Register the cargo on a shipping note and send the shipping note to a shipping company.
- ▶ Register details on customs entry forms and send them to Customs.
- ▶ Arrange adequate packing, including shipping marks.
- ▶ Receive a calling forward notice from the shipping company.
- ▶ Send the goods to the port with a consignment note.
- ▶ Receive the bill of lading or sea waybill from the shipping company.
- ▶ Pay the freight bill.
- ▶ Endorse the bill of lading or sea waybill and send copies to the shipping line and to the customer, or to the bank acting as intermediary.

### B Shipping and Forwarding Agents

In practice, only the largest exporters have the staff and other resources to handle their own shipping arrangements. Small exporters find it easier to use the services of shipping and forwarding agents, or freight forwarders as they are sometimes called. Freight forwarders are experts on transport costs and on the availability and suitability of different modes of transport for different markets. They book transport space, handle the required documentation and, in many cases, collect the goods from the factory and transport them to agreed docks, airports, railway stations or road collection points. Shipping and forwarding agents also deal with customs clearances and other formalities. They arrange payment of freight charges and insurance, if necessary, and handle the collection of the necessary documents. They may also

help by “consolidating” or grouping together a number of consignments to make transportation more economical.

## **C** Types of Shipping

### **1. Ocean Freight**

The freight rates that have to be paid to send goods by ocean freight depend to some extent on the type of shipping used. The four basic types of shipping are.<sup>50</sup>

- 1.1. *Conference line vessels.* These are ships operated by a line that is a member of a shipping conference. Conferences are groups of shipping lines. They establish common freight rates, regular scheduled departures and common shipping conditions. They provide international liner services for the carriage of cargo on specified routes.
- 1.2. *Non-conference vessels.* These are ships operated by shipping companies that do not belong to conferences but provide scheduled services. They determine their own freight rates.
- 1.3. *Tramp ships.* These ships do not follow regular routes but travel as and where cargoes are available.
- 1.4. *Charter ships.* These ships can be hired to transport products for a particular purpose or time. Their use is usually justifiable only for large orders.

The shipping company will charge either by weight or measure whichever is greater. In the case of a particularly valuable cargo, for example furs, the shipping company may charge an additional ad valorem freight rate. A minimum freight charge may be collected for goods that are too small for a shipping company to handle strictly by volume or weight.

Freight rates may also be increased by a special surcharge in special situations, such as local unrest or disaster or the need for a longer journey than usual as, for example, when the Suez Canal was closed. A surcharge may also be collected after a major devaluation of a currency. A congestion surcharge can also be imposed; this may be as high as 75 percent.

### **2. Air Freight**

Air freight has many advantages over other modes of transport and its use is increasing. Generally, air freight is most practical for goods which have a high unit value, but there are no hard and fast rules. The most obvious advantage of air freight is, of course, speed of delivery.

For many items from distant origins, such as fresh flowers and fruit, it is the only logical mode of transport. Air transport may also be vital for fashion goods that have a short sales life, or for seasonal goods.

<sup>50</sup> Of these types of shipping, the most commonly used are conference line vessels, which make regular journeys and offer special discounts to exporters who use them regularly. The exporter or his/her freight forwarder may make such special arrangements with conference lines.

Air freight can also save the exporter storage costs as it enables him/her to maintain a smaller inventory in the export market. Cost savings also stem from.

- Greater security in transit.
- Less handling in transit.
- Lower insurance costs.

As risk of pilferage and damage is much smaller, insurance premiums on shipments by air are usually lower than for sea transport. The lighter packing required for shipment by air can be a big advantage in countries where customs duties are based on the total weight of the consignment. Procedures for shipping by ocean freight have been developed over centuries and are therefore complex. Air freight procedures are newer and simpler. All the same, the procedures may take up too much of an exporter's time and he/she may decide to use the services of an air cargo agent.

## 2.1. Air freight rates

Air freight rates vary more than sea freight rates, but the basis of calculation is usually a price per kilogram (or 427 cubic inches) with certain minimum charges. Because bulk presents problems to airlines, rates for light but bulky cargoes are sometimes set by volume rather than by weight.<sup>51</sup> This usually happens when a kilogram of the cargo has a volume exceeding 6 cubic decimeters. Among the other costs are the following:

- 2.1.1. terminal charges for customs clearance;
- 2.1.2. sorting, pick-up, and delivery;
- 2.1.3. transit charges at the airport; and
- 2.1.4. over-flying tax charged by some States.

## 2.2. Air waybill

The documentation for air freight is far simpler than that for ocean freight. If exporting by air freight, the exporter normally begins by completing an air-consignment note and/or letter of instruction, to the airline. This note gives basic details of the cargo, the customer's name and address and the services the exporter requires, such as c.o.d. or special insurance arrangements. From these instructions, the airline prepares the air waybill. This document is:

- 2.2.1. a receipt from the airline acknowledging that it has received the consignment from the shipper;
- 2.2.2. a contract between the shipper and the airline for moving the goods;
- 2.2.3. an instruction sheet;
- 2.2.4. a customs declaration;
- 2.2.5. a bill for the freight; and
- 2.2.6. a certificate of insurance, if the amount and extent of coverage are stated.

The air waybill is an internationally standardized document, printed in English and in the language of the air carrier. As noted earlier, unlike the bill of lading, the air

<sup>51</sup> For reasons of costs, many bulk goods and raw materials are unsuited to carriage by air. There are also strict restrictions on transport by air of hazardous cargo.

waybill does not give title to the goods. An air waybill goes automatically to the consignee or customer to enable him/her to collect the goods without further formality, unless a c.o.d. arrangement has been made. Such an arrangement is a protection when using air freight, as it requires payment to be made before the goods are collected by the customer.

## **D** Choosing the Right Transport Means<sup>52</sup>

In the majority of cases, geography, the availability of services and the physical characteristics of the product will leave the exporter little choice as to the mode of transport. Often, however, the most immediately obvious choice is not always the best. The major choice is likely to lie between sea and air transport. Road and rail may be used for exports to countries on the same continent. But, for most exporters in developing and least developing countries, road, and rail transport are primarily a means of moving goods to and from docks or airports.

The freight rate is not the only cost to be borne in mind when calculating the total cost of transportation.

### **\$** The other principal main costs are.

- ▶ The packing cost. Extra packing may be required for ocean freight.
- ▶ The cost of time. If payment cannot be made before delivery, shipment by sea, which can take months, will tie up the exporter's capital for the equivalent period.

### **\$\$** The other costs to be borne in mind are the following.

- ▶ Cost of preparing shipping documents.
- ▶ Handling fees and port dues.
- ▶ Insurance.

## **E** Other factors may influence the choice of transport means, for example.

- ▶ What did the customer specify? The customer's wishes are all-important; if they are clearly specified, they must be carried out.
- ▶ Uncertainty about transit may be more damaging to the customer than the transit time. Are the sea ports or airports efficiently run? Are they outside the territory or control of the exporter? Are the means of transportation to the sea/air ports reliable? It may be worth paying a premium for a firm delivery date.
- ▶ Are special rates available for air transport of large consignments? Some airlines are anxious to develop their cargo trade and offer concessionary rates for substantial business.

<sup>52</sup> Separate decisions must be made for each consignment. No general rules are possible.

- Short shelf lives may make it essential for some goods to be sent by air (e.g. fresh flowers).
- Many consignments must arrive in time for a buying season (e.g. Christmas or Diwali) or within a licensing period, or before a specified date to avoid style obsolescence.
- It may be possible to reduce the volume and thus the freight rate by sending goods unassembled.



## Chapter

# 20

## PACKING FOR EXPORT MARKETS

### A Factors to Consider

The packing requirements for a particular product during transport and in the market place will depend on a number of factors.

- The characteristics of the product itself.
- The transportation methods used.
- The climatic conditions during the different stages of the journey.
- The customer's requirements.
- Governmental or other regulations.

### B Packing Problems<sup>53</sup>

Packing for transport has to strike a balance between two considerations.

- The package must be strong enough to protect the product against transportation hazards such as pilferage, rough handling, corrosion, and crushing, etc.
- It must be as light and as compact as possible to keep freight costs low.

As freight costs are more likely to be calculated by volume rather than by weight, a few centimeters off the dimensions of the packing cases in a large shipment could make quite a difference in freight costs. For air freight, methods of reducing package weight without impairing package performance are also desirable.

Take the example of a firm shipping by sea a consignment with a total volume of 9 cu ft. If it followed its traditional methods, the firm would pack such a consignment in five small wooden cases, and pack the cases in turn in a wooden crate. The final volume of the consignment would be 12 cu ft. However, the firm decided to try a different form of packing. It constructed a wooden crate from stronger wood and eliminated the wooden cases, thereby reducing the total volume of the consignment to 9.5 cu ft and saving a small amount in freight costs. As these consignments formed part of a regular export order, the firm realized large savings over the long term.

<sup>53</sup> Product and package presentation: packaging plays an important role in product sales. In addition to ensuring that the product arrives at the store or supermarket shelf in good condition, the packaging may form an integral part of an attractive product presentation. Thus, its appearance may also be an essential consideration for the exporter.

## C Causes of Damage

When deciding on packing requirements, the exporter takes into consideration the kind of damage likely to occur in transit. The goods are vulnerable at many stages of the journey.

- When being handled and loaded at the factory.
- When being transferred from one transport mode to another.
- While being transported from one point to another, as a result of damp, pressure, cold, heat, dust, shocks, and vibration, etc.
- When being unloaded at the port of destination.
- During unloading by the distributor or vendor at his/her premises.

Packing should meet all the customer's specifications and should carry certain markings. The packing of many commodities, such as coffee, tea, and cotton, is subject to detailed international agreements, and many shipping lines and insurance companies expect goods to be packed according to such requirements.

Identifying packaging requirements for specific products is a complex and highly technical matter for which expert advice may be needed. For example, standard-sized wooden or cardboard boxes may be all that is necessary for regular shipments of small products. Machinery or heavy goods may need to be transported in wooden crates; alternatively they need protection only for certain parts. Bags or sacks may be ideal for commodities such as sugar or coffee. Metal products may need a protective paint or grease coating against corrosion, but no actual covering.

## D Marking Requirements

The first marking an exporter must consider for his/her goods is the mark of origin "Made in Cambodia or Product of Cambodia". Some countries require a compulsory mark of origin for imported goods. Others require one only when the lack of it would give a false impression of the real origin of the goods.

**"The mark of origin must be legible, indelible, and easily seen. Made in Cambodia"**

The exporter is not always responsible for marking consignments with the mark of origin, but it is often easier and more practical for him/her to do so. He/she should always look into the importing country's marking and packaging regulations before packing goods for export shipment. He/she is likely to look to you for information on the requirements of your territory in this respect. Ensure that you are fully informed, keep this knowledge up to date, and communicate any changes in requirements to the MoC or TPO.

Shipping marks should be clearly stamped on each packing case. The marks are often a distinctive shape with the customer's initials inside them. On each box, underneath the mark, the destination and the number of boxes in the shipment is given, as well as the number of that particular box in the set or lot. For example, the first case of ten cases would be marked 1/10. The weights and measurements of each box should also be indicated when the boxes vary in size.

Goods to be handled with care should be marked with the international sign of a wine glass. Most national handling symbols are based on those recommended by the International Organization for Standardization.

## **E** Labeling

Special rules apply to the labeling of many products such as prepared foodstuffs, beverages, pharmaceuticals, and toilet preparations. These rules vary widely from country to country and must be investigated for all target markets. These rules may require the following information on labels.

- Name and address of manufacturer.
- Weight and/or volume of contents.
- Quantity/count.
- Ingredients and inactive ingredients.
- Uses, warnings, and directions.
- Nutrition's values.
- Other relevant details, such as date of manufactured.

## **F** Handling

Goods can be handled in a variety of ways. One method is called break bulk handling, under which goods of different shapes and sizes are handled separately. A more recent idea is cargo unitization, the assembly of packages into unit loads. Small items of cargo are put together and handled as a unit of standard size, usually with the aid of mechanical equipment. Unitization reduces the amount of labor required to move the goods and speeds up the cargo handling process. It may make use of the following:

- Containers.
- Pallets.
- Pallet less unit loads using plastic film wrapping or strapping and skid sheets.
- Roll-on, roll-off vessels.
- Barge-carrying vessels.
- Pre-slung cargo.

### **1. Containerization**<sup>54</sup>

This is the best known method of cargo unitization, under which cargo is packed in standard containers so that it can be handled quickly and easily by standardized equipment. Speed of handling is very important, especially when goods are transferred from one transport mode to another - from ships to road, from road to rail. Containerization enables ships to spend much

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<sup>54</sup> The ships used for container loads are specially designed cellular container ships, and cannot be adapted easily to loads not packed for containerization. If it does not have a full load, a container ship will probably carry some empty containers, at least on one leg of its journey. Container ships are so costly that it is not economic for it to call at a number of ports in an attempt to fill the empty space on the way to the port of destination. Moreover, it is only worthwhile for a container ship to call at container ports which have special handling equipment.

less time in loading and unloading in docks or ports, and to spend more time carrying goods across the seas.

Containerization has gained popularity since the 1960s, mainly on the deep-sea trade routes between the industrialized countries of North America, Western Europe, Australia and Japan. Smaller types of container ships have also been developed for shorter distances in and around Western Europe, the Mediterranean, and Australia. Inside a container the goods are almost completely protected from corrosion or pilferage. As the possibility of rough handling is reduced, a lighter packing can be used – perhaps the same packing that is used for domestic shipments. This can save our exporter a good deal of money and means that he/she can quote a lower price to the customer.

## 2. Palletization

Palletization is the most widely used method of shipping unit loads. It is more likely to be used by exporters in developing and least developing countries than containerization. The goods are carried on flat wood or metal frames known as pallets. These are of a standard size designed to be picked up and put down quickly and easily by fork lift trucks and other handling equipment. The standard European pallet is 120 cm by 80 cm. The units may be bound to it by steel bands or tensioned strapping. The pallet loads of goods are then stacked on top of each other or in racks. This method is most successful with specially designed equipment and ships, but pallets can also be used effectively on general cargo ships.

## 3. Barge-carrying Vessels

The barge-carrying ship is the most recently developed form of cargo unitization. It is also one of the most versatile forms, since it does not need specialized port facilities. For cargo loading, each barge is towed out by tug boat to the mother ship which hoists the complete unit – barge and goods – on board for the sea journey. At the port of destination, the barges are simply slung over the side of the ship and are towed by tug boat to the dockside, which may be deep inland, up a river. The mother ship needs only a deep-water, sheltered anchorage for loading and unloading.

## 4. Pre-slung Cargoes

Under this method, cargo is gathered together ready-slung in crane loads, so that the handling equipment spends a minimum of time on each loading or unloading operation. An idea of the advantages of unitization over break-bulk handling can be gained from the following generally accepted figures:

Method of cargo handling	Tons loaded per crane hour
Break-bulk handling	15
Palletization	60
Containerization	200
Barge system	1.400 <sup>55</sup>



<sup>55</sup> Covers loading/unloading of the barges on to/from the mother ship but excludes loading and unloading on to/from the barges.

## Chapter

# 21

## THE ROLE OF THE COMMERCIAL REPRESENTATIVES IN LEGAL MATTERS

This chapter discusses your role as far as legal matters are concerned. Most of your work abroad is likely to be of a commercial nature, but from time to time you will have to deal with questions connected with the law. It is of utmost importance to recognize when you have a legal problem, to have some idea of the issues involved, and to know how to deal with it.

You should be familiar with Cambodian's laws, international conventions, and other legal acts which are relevant to your posting. You should have copies of these laws as reference available in your files and/or commercial's library. You should study – if not already familiar with – the exact terms of any bilateral agreements between Cambodia and the post territory. Such agreements may cover trade, payment, taxation, preferential tariffs and other customs matters, scientific, and cultural cooperation, etc. Although most agreements tend to be general in substance, examine them carefully for the opportunities they may indicate for developing our home country's export trade.

### A

#### Legal Framework at Home

You should be familiar with the legal framework of our country's export enterprises. For instance you must know about export quotas, the official authorizations required for the export trade and the corresponding authorizing State organs.

### B

#### Legal Framework in Your Territory

Export enterprises in our country may depend on you for information on the legal framework for trade in your territory. You must therefore be familiar with the laws and regulations of your post territory in as far as they affect the importation of our country's goods and services. Such laws cover customs, safety standards, sanitary and phytosanitary standards, packaging, labeling, and other matters. Legislations in many countries contain certain restrictions on business practices which may be illegal under the laws of other countries. The United Nations Conference on Trade and Development (UNCTAD) is preparing a model law on restrictive business practices as a guide to the formulation of trade legislation. Such model could help eliminate, or at least reduce, the incidence of illegal restrictive practices.

Be sure to obtain copies of your host country's more important trade laws and regulations. These are usually available from government sources in the local, and often in a foreign language. Send copies to the MoC or TPO for consultation with home country's legal experts.

You should also be familiar with the legal conditions governing the operations of foreign companies in your territory. In some countries, foreign enterprises or their representatives must register with a governmental authority. These rules and regulations change frequently. You should be aware of when such changes occur, and understand their significance. You should be able to answer most questions from our country's suppliers on legal matters. Some matters will require the services of a legal counsel. For this purpose, you ought to maintain a short list of local lawyers specializing in various aspects of international trade, such as international commercial contracts, agency contracts, taxation, international payments, and debt collection, cooperation agreements including joint ventures, etc.



## Chapter

# 22

## CONTRACT

### A Definition and Formation of a Contract<sup>56</sup>

A contract is a binding agreement between the parties to it. Its essentials are.

- Competent parties.
- Subject matter.
- Mutuality of agreement.
- Mutuality of obligation.
- In some countries, particularly those with an Anglo-American legal system, a legal “consideration”, i.e., an element of exchange between the parties which is measurable in money or money’s worth.

A contract is concluded when agreement is reached. In a typical business transaction, this occurs when an offer by one party is finally and unconditionally accepted by the other party.

Ω **The guiding principle for the formation of a contract in all legal systems is the following.**

- **The offeror must make an offer.**
- **The offeree must accept the offer.**

### B Types of Contract

#### 1. Sales Contracts for the International Sale of Goods

- 1.1. The sales contract is an agreement between a seller and a buyer, based on an offer which must be accepted.
- 1.2. The offer is a proposal for a contract, addressed normally to one or more specific persons/entities.
- 1.3. The offer should contain.
  - 1.3.1. Information on the offeror:
    - 1.3.1.1. his/her/entity name; and

<sup>56</sup> All sales involve contracts, and for myriad reasons you must have at least an elementary understanding of what they are.

- 1.3.1.2. his/her/entity complete address, including telephone, facsimile and email;
- 1.3.2. Name and address of offeree.
- 1.3.3. Information on the goods to be sold or bought:
  - 1.3.3.1. type of goods; and
  - 1.3.3.2. their quality; quantity; origin; color; weight; technical characteristics; trade marks, if applicable; and packing;
- 1.3.4. The payment conditions.
- 1.3.5. The transport conditions; which party will be responsible for obtaining the necessary licenses and for the customs formalities.
- 1.3.6. The insurance conditions.
- 1.3.7. Time and place of delivery and of passing of risk.
- 1.3.8. Conditions of the transfer of title.
- 1.3.9. The law applicable to the contract and means for settlement of any disputes.
- 1.3.10. Any other points the offeror considers relevant to the proposed contract, e.g. reference to general conditions of sale.
- 1.4. The offer may be made orally or in writing, or may be implied by the conduct of the offeror. It must be communicated to the person(s)/entity(ies) to which it is made.
- 1.5. The acceptance is the statement made by the offeree indicating assent to an offer. It must be absolute and unqualified. Conditional acceptance amounts to a counter-offer which in turn has to be accepted if a contract is to be concluded.
- 1.6. The acceptance may be oral, written, or implied by conduct.

Under a sales contract the seller must deliver the goods, hand over any documentation, such as the bill of lading and a commercial invoice, and transfer ownership of the goods as required by the contract. The buyer must pay the price of the goods and take delivery of them as stipulated in the contract.<sup>57</sup>

## 2. Ancillary Contracts

A business transaction, particularly when it is related to goods, may involve a number of ancillary contracts in addition to the basic agreement. After, or in conjunction with the conclusion of an ad hoc delivery contract, the exporter may have to.

Activity	Contract
❶ Arrange with a bank for the finance necessary to manufacture the goods ordered	❶ Loan contract with bank
❷ Arrange for export credit Insurance	❷ Contract with the export credit insurance agency
❸ Arrange with the bank for the transfer of documents	❸ Contract with the bank concerning letters of credit or documentary collection
❹ Arrange for the dispatch of the goods	❹ Contract with forwarding agents or with a transport company
❺ Arrange for insurance of goods	❺ Contract with an insurance company

<sup>57</sup> For further details, refer to the ITC/ICC guide, *Legal Aspects of Foreign Trade* (Geneva, 1984) or latest update.

### 3. Countertrade Contracts

Barter, switch, offset, buy-back, and other forms of counter-trade contracts are true sales contracts although they have some special features.

A barter contract, which is as old as trade itself, is a contract covering the simple exchange of goods. A switch contract covers the purchase of goods in a non-convertible currency and their sales in a convertible currency. Under an offset contract an exporter undertakes to buy goods from, and to make a counter-balancing sale to, a market. Here, there are two distinct contracts, the first being conditional on the second and the payments offsetting each other. Buy-back contracts require a buyer of an industrial plant or equipment to pay for it by providing the seller with a percentage of production in lieu of the purchase price.

If you are required to advise a state trading corporation, you could become involved in a sales contract negotiation at a very early stage. You may have brought the parties together in the first place. You may find yourself in the position of an intermediary between the parties as terms and conditions are negotiated. **“Always remember that you are only an adviser and expeditor and that the actual wording of a contract is the sole responsibility of the parties concerned or their lawyers.”** You may find that one of your most positive contributions will be to bring the parties together again when negotiations falter.

### 4. Leasing Contracts

Under a leasing contract the owner of a property, or lessor, gives the exclusive right of use of that property to someone else, the lessee. The ownership of the leased property never passes from the lessor to the lessee.

In leasing contracts, the primary object is the lease of the property. Some contracts provide the lessee with an option, or a right, to buy the property concerned. An option to buy the leased property must be agreed upon in advance. This type of arrangement is being increasingly used when very expensive equipment is involved, such as aircraft and ships.

### 5. Representation Agreements

These are described in chapter 15, “Sales Representation”.

### 6. Engineering Contracts

Enterprises in developed countries actively participate in construction activities in developing and least developing countries. Engineering contracts on an international scale have become common. In the course of time, the contractual conditions under which engineering contracts are performed abroad have been standardized. Several types of contracts have been developed under the auspices of professional organizations like FIDIC (the French acronym for the International Federation of Consulting Engineers<sup>58</sup>) and international bodies such as the United Nations Economic Commission for Europe.

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<sup>58</sup> Federation internationale des ingénieurs conseils, B.P. 86, CH 1012 Lausanne, Switzerland. Consulting engineers often participate in the formulation and implementation of engineering contracts as advisers to the investors. Their role is partly advisory and partly supervisory, because they both advise the client and supervise the performance of the contractors.

- 6.1. Construction contracts cover the construction of buildings and other high-rise structures, while civil engineering contracts deal with the construction of roads, bridges, tunnels, dams, major irrigation systems, and similar works.
- 6.2. Contracts for delivery and erection of equipment are engineering contracts that provide for the delivery of either mechanical or electrical equipment, or both. If the contract covers delivery of equipment only, such a contract is considered a contract of sale.
- 6.3. Turnkey contracts are engineering contracts under which, contractors take over the construction of an industrial plant to the point of readiness for operation.
- 6.4. Products-in-hand contracts are turnkey contracts under which the contractor's responsibility continues until the plant operates at a certain capacity. Training of the investor's staff until they are capable of independent production/operation is normally provided for.

Since engineering contracts are often performed by several contractors with specialized skills and knowledge, it is common for such contractors to draw up a contract among themselves for the execution of a specific project. In some contracts all the partners enter into a direct contractual relationship with the investor. In others, only one contractor (called the "main" or "prime" contractor) has this relationship with the investor; the other parties enter into sub-contractual agreements with the main contractor. In this case, the prime contractor is directly liable to the investor, and the subcontractors are liable only to the prime contractor. As there is no legal relationship between the subcontractor and the investor, the investor cannot sue the subcontractor or vice versa in cases of dispute.

## 7. Foreign Investment and Joint Venture Agreements

Agreements covering foreign investment are usually made up of several interrelated contracts. The main contract may be a joint venture agreement. The other agreements could cover such matters as the formation of a new company, transfer of technology and other areas essential to the implementation of the main contract. In this connection, your primary objective would be to attract foreign investment for our country. Guidance concerning this activity is given in "Investment Promotion", chapters' 22-23.

## 8. Transfer of Technology Agreements

Under these agreements, generally called licensing agreements, the owner of a trade mark, patent, or know-how allows someone else to use it. Licensing agreements often form part of joint venture agreements and sometimes of engineering contracts. Payment is normally made in the form of a fee and/or a royalty.

➔ A trade mark is a registered and protected sign or name which cannot be used without the consent of the owner. ➔ A patent is a legal right to use an original discovery or invention that is registered with a patent office. Permission must be obtained from the owner to exploit such knowledge. ➔ Know-how is knowledge that cannot be legally registered or protected. It may consist of detailed blueprints, plans, high technology specifications or a special process.

➔ Licensing arrangements may also take the form of franchise agreements under which the owner of a process allows another party to make a product by means of this process within a certain territory or to sell a product produced under this process and often carrying a

registered brand name. ➔ Transfer of technology contracts may also include management contracts. These allow a party to take over the management of a business enterprise such as an industrial plant or a hotel. The owner retains ownership but transfers his/her management rights partially or entirely to the management company.

## **9. Transportation Contracts**

To deliver goods in international trade, merchants must employ various other companies whose business it is to see that the goods are transported from one place to another.

If an owner wishes to deliver goods to an overseas buyer, he/she must conclude a contract of carriage by sea with someone who has a ship (the ship-owner) for remuneration (the freight). In this case the ship-owner is also the carrier. The exporter in such a relationship is called “the shipper”. If the exporter thinks that the goods will take up most or all of the space on a ship, he/she will charter a ship. Such a contract is called a charter party. The document in which all the conditions of the carriage by sea are embodied is called the bill of lading (B/L) or the sea waybill (see chapter 27. Export documentation).

An exporter may also employ a forwarding agent to procure space for transportation of goods (see chapter 28, Transport of goods). On the other hand, a ship-owner may employ a loading broker to obtain cargoes for the ship. In other modes of transportation, i.e., by road, rail or air, such companies play basically the same roles. The documents issued have a differed character from the bill of lading, however, since they are usually not negotiable, i.e., they do not represent the goods in the same manner as does the B/L.

## **10. International Insurance Contracts**

This subject has been dealt with in chapter 26, Cargo insurance.



## Chapter

# 23

## TRADE DISPUTES

There are several ways of settling an international trade dispute. The parties may submit the case to a national court in either the exporter's or the importer's country, or they may settle it privately by.

- Amicable settlement.
- Conciliation.
- Arbitration.

The method of settlement is generally stipulated in the contract.

### **A** Amicable Settlement

Most international trade contracts require the parties to try to resolve disputes by amicable settlement, i.e., by negotiating a solution between themselves, without outside intervention. This method of settling disputes is faster and less expensive than other methods. The presence of a commercial representative as an honest broker during meetings of the parties in dispute is often helpful.

### **B** Conciliation

Conciliation is either a step before, or an alternative to, arbitration. In conciliation, the parties nominate outside persons whose duty it will be to mediate between the parties. Conciliators act as arbitrators, but they can only make recommendations which are not enforceable under law. If the recommended solution is not accepted by the disputing parties, recourse must be made to the other methods provided for in the contract. Contracts rarely provide for conciliation as a method for the settlement of disputes. However, if arbitration is entrusted to an institution, that institution's rules of arbitration will, as a rule, also provide for conciliation by the same body. In such cases, each party to the dispute is entitled to ask for conciliation. The other party may, nevertheless, refuse conciliation and ask for immediate arbitration.

### **C** Arbitration

Most international trade contracts provide for settlement of a dispute by arbitration. There are two major arbitration systems.

## 1. Institutional Arbitration

In institutional arbitration, the parties agree to resort to an existing arbitration tribunal within an institution, such as a chamber of commerce. In such cases, the institution will have its rules on conciliation, which lay down the procedure to be followed for the nomination of arbitrators, the periods within which claims and counter-claims are to be submitted, and other terms and conditions.

## 2. *Ad hoc* Arbitration

In *ad hoc* arbitration, the parties themselves nominate the members of their arbitration tribunal. They may choose the chairman themselves or leave that choice to the nominees to the panel. The selection of the chairman is important as he/she will have the deciding vote in case the arbitrators disagree. One weakness of this procedure is that there is no way of breaking the deadlock if the parties cannot agree on a chairman.

## D Arbitration Institutions and International Agreements

There are several well-known institutions which are often used by parties in international trade disputes. The best known of these is the International Chamber of Commerce (ICC)<sup>59</sup> in Paris.

### 1. International Chamber of Commerce (ICC)

ICC has a Court of Arbitration and Rules of Conciliation and Arbitration. According to the rules, a dispute may be resolved either by one or by three arbitrators. It is up to the parties to decide whether they wish to have one arbitrator or three. If they fail to do so, the arbitrators will be nominated by ICC. Many countries have an ICC National Committee, with its own list of arbitrators. If the parties do not make their own choice, ICC will select one arbitrator from the lists of the National Committees of the parties concerned. The third arbitrator, the chairman, will be nominated by ICC. As a rule, the chairman will come from the country where the case is to be heard, provided it is not the country of one of the parties. Another rule is that the chairman should not be a national of either of the countries of the disputing parties.

ICC has a permanent Secretariat that supervises each arbitration. Within the limits of the rules, the parties enjoy freedom in such matters as the choice of arbitrators, applicable law, and the place of arbitration. ICC arbitrations may take place anywhere in the world, and there are no restrictions on the type of dispute, that may be submitted to ICC for arbitration, or on the persons or organizations that may be parties.

### 2. United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules

In 1976, UNCITRAL adopted the UNCITRAL Arbitration Rules. These are designed for use world-wide. They are intended to be acceptable in both market and centrally-planned economies, in both developed and developing countries, and under common law as well as civil law. When drafting these rules, UNCITRAL took into account all existing arbitration conventions and all important existing arbitration rules, in all parts of the world. The

<sup>59</sup> 38 Cours Albert 1er, Paris 75008, France

UNCITRAL Rules do not provide for the administration of an arbitration. However, an existing arbitral institution may serve as the “appointing authority” and assist the parties in the appointment procedure and in the case of a challenge. Many arbitral institutions are prepared to administer arbitrations under the UNCITRAL Arbitration Rules.

Mention should also be made of the Arbitration Rules of the United Nations Economic Commission for Europe (ECE Rules of 1966); the Rules for International Commercial Arbitration of the former United Nations Economic Commission for Asia and the Far East (ECAFE Rules of 1966), now the Economic and Social Commission for Asia and the Pacific (ESCAP); the Uniform Rules for Procedure in the Arbitration Courts at the chambers of commerce of member countries of the Council for Mutual Economic Assistance (CMEA Rules of 1974); the Inter-American Arbitration Rules.

### **3. Other arbitration centers**

Developing countries have established their own arbitration centers. The Afro-Asian Legal Consultative Committee (AALCC), in New Delhi, helped to set up the Regional Center for Commercial Arbitration in Kuala Lumpur in 1978. Another such center started to work in Cairo in 1984, and there will eventually be another in Lagos.

The Rules applied by the Center in Kuala Lumpur are the UNCITRAL Arbitration Rules of 1976, with certain modifications. The parties are free to choose their own arbitrators, as set out in the UNCITRAL Rules. If they fail to agree on the choice of a sole arbitrator, or of the chairman in the case of a three-member tribunal, the appointment will be made by an “appointing authority” chosen by the parties in their arbitration clause. If the parties appoint the Center as the “appointing authority”, the Center will select the arbitrator(s) and/or the chairman from its own list of arbitrators. The seat of arbitration may be Kuala Lumpur or any other place selected by the parties.

Many national chambers of commerce have set up their own tribunals. The London Court of Arbitration (LCA), sponsored by the London Chamber of Commerce, the City of London Corporation, and the Chartered Institute of Arbitration, has achieved international prominence. LCA can act in both domestic and international cases.

Another well-known tribunal is the Arbitration Institute of the Stockholm Chamber of Commerce, established in 1917.<sup>60</sup>

China established an arbitration tribunal in 1954. Known since 1980 as the Foreign Economic and Trade Arbitration Commission, this tribunal is gaining prominence. China also has a Maritime Arbitration Commission, which specializes in maritime disputes. The basic characteristic of arbitration under Chinese rules is that conciliation plays a much greater role than formal arbitration. Under one procedure, the tribunal will try to reconcile the disagreeing parties and will step in with its own decision only if the attempt at conciliation is unsuccessful. Under another procedure, each party nominates its own arbitration panel, which will go through conciliation proceedings in the event of a dispute. Only if this does not succeed will the dispute be referred to formal arbitration.

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<sup>60</sup> This institute was often used for disputes between enterprises from former Eastern Europe and countries with market economies, particularly the United States.

There are also tribunals set up under the auspices of trade associations. Examples are FOSFA (Federation of Oil Seeds and Fats Association) and GAFTA (Grain and Feed Trade Association) which provide arbitration clauses in their standard conditions. There are advantages to using such trade associations, as they are familiar with the customs and usages of their particular trade.

The American Arbitration Association (AAA) does not act as arbitrator, but only administers arbitrations with the agreement of the parties. It also maintains a panel of arbitrators. AAA has two types of rules, namely, Commercial Arbitration Rules for regular commercial disputes and Construction Industry Arbitration Rules for disputes arising out construction and engineering contracts.

Sometimes special arbitration tribunals are available for special type of arbitration. For example, under the auspices of the International Bank for Reconstruction and Development (World Bank) in Washington, D.C., a special International Convention for Investment Disputes has been concluded. The Convention and the arbitration of disputes are administered by ICSID (International Center for the Settlement of Investment Disputes), which comes within the jurisdiction of the World Bank. The special feature of ICSID is that at least one of the contracting parties involved in a dispute must be a State or an organ of a State.

## **E** Content of an Arbitration Clause

An arbitration clause need not be complex, but should contain the following.

- A statement to the effect that all disputes arising out of the contract shall be settled by arbitration if amicable settlement cannot be reached.
- Nomination of the administering body.
- The number of arbitrators to be nominated.
- Place of arbitration.
- Language of arbitration.
- Applicable law.

ICC proposes the insertion in contracts of the following arbitration clause: “All disputes arising in connection with the present contract shall be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules.”

UNCITRAL Arbitration Rules propose the use of the following clause: “Any dispute, controversy or claim arising out of, or relating to, this contract, or the breach termination, or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force.”

## **F** Enforcement of Awards

Once an arbitral award or a judgment of a foreign court has been made, the winning party must enforce the award if the losing party is not willing to execute it. Since the losing party usually resides in another country, the problem of enforcement arises.

There are two important international conventions on the enforcement of awards. These are the “**Geneva Convention**” and the “**New York Convention.**”

The **Geneva Convention** comprises a **Convention (1923)** and a **Protocol (1927)**. Both documents have been ratified by a number of countries. Under these, an award may be enforced in local courts, provided the arbitration clause itself is considered to be valid under local law.<sup>61</sup> Enforcement will be refused if the award is contrary to the “public policy” of the country in which enforcement is requested.

The **New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958)** has been ratified by many countries, but certain States have ratified it subject to reciprocity by other States. While the **Geneva Convention** was based on reciprocity, which made it necessary to conclude bilateral agreements between countries desirous of applying it mutually, the **New York Convention** applies, in principle, to any foreign award made in the territory of any other contracting State.<sup>62</sup>

## **G** Costs of Arbitration

Arbitration is expensive, particularly if the value in dispute is high. ICC has a scale of administrative charges and arbitrators’ fees. A deposit according to this scale must be made before the proceedings can start.

For example, if the sum in dispute is under US\$25,000 the administration fee will be 3% and the arbitrators’ fees will be up to 10%. If the sum in dispute is between US\$10 million and US\$100 million, the administrative charges will be 0.05 % and the arbitrators’ fees will be between 0.1% and 0.15%. The cost of arbitration is usually borne by the losing party.

## **H** Court Proceedings and Arbitration Compared

Arbitration has a number of advantages over national courts as a forum for the settlement of international trade disputes.

- Through arbitration, disputes may be settled by a private procedure agreed upon by the parties. The parties agree to be bound by the arbitrators’ decision, which has the force of law and may be executed in a manner similar to a court award.
- The judges in State courts will necessarily have the same nationality as one of the parties to the dispute. Similarly, the litigation normally takes place in the country and in the language of either the importer or the exporter. Arbitration, however, makes possible the choice of a neutral language and of an arbitrator (or president of the arbitral tribunal) whose nationality is neutral.
- While proceedings in national courts are public, arbitration proceedings are private, and only the parties themselves receive copies of the arbitral decisions.

<sup>61</sup> It should be noted that the application of these provisions depends upon reciprocity being granted by the country in which the other party is resident.

<sup>62</sup> The New York Convention provides that an arbitral award of foreign origin will be enforced unless it does not satisfy certain explicit requirements, such as that the arbitration agreement should be valid.

- In arbitration proceedings, the parties are able to appoint as arbitrators experts in the field giving rise to the dispute.
- Judges in national courts are bound by rigid procedural rules. The parties to arbitration proceedings can choose flexible proceedings adapted to the circumstances of the case. Similarly, arbitrators have more freedom than national judges to determine the most appropriate substantive rule, particularly if they have the power of “amiable compositeurs”, enabling them to decide according to the principles of common sense and fair dealing.
- Cases in State courts take much longer to be heard. Moreover, the judgments of State courts may generally be appealed to at least one, and sometimes two higher courts, thus giving rise to very lengthy proceedings. By contrast arbitral awards are, in principle, final, and may therefore not be appealed.
- The general character of arbitral proceedings is conducive to reaching amicable settlements.
- Arbitral awards are, as a general rule, more easily enforced than decisions of national courts of law.



## Chapter

# 24

## THE ROLE OF THE COMMERCIAL REPRESENTATIVE IN TRADE DISPUTES

### A Introduction

However carefully parties to an international trade transaction try to live up to their commitments, trade disputes, disagreements, or claims, and counter-claims arising out of differing interpretations of contractual obligations, etc., are bound to occur. They are often due to differences in customs, business laws, and procedures, or language interpretation, as well as to causes outside the control of either party.

Although the problem is primarily for the parties to resolve between themselves, you are likely to be drawn into such disputes. Many trade disputes arise from simple misunderstandings, which you may be able to help clear up very easily. You should also be prepared to assist in the settlement of more substantial complaints in the interest of future trading relationships. In every case, your role should be that of a neutral intermediary or honest broker. You must not convey the impression that you have any function or powers that can affect the outcome of the dispute, or that you are able to act as an arbitrator.

**“DO NOT VENTURE AN OPINION ON THE MERITS OF A CASE. DO NOT GIVE COPIES OF YOUR REPORTS CONCERNING THE CIRCUMSTANCES OF A CASE TO EITHER PARTY. BE PARTICULARLY DISCREET IN ANY RECOMMENDATIONS YOU MAY MAKE TO THE DISPUTANTS.”**

In principle, your aim is to assist in clearing up misunderstandings and to encourage the parties to resolve their differences through friendly negotiations, leading to an amicable settlement. Limit your assistance to informal and conciliatory efforts.

### B Guidelines for Initial Activity

Within the above limitations, adopt a positive and helpful attitude. The following guidelines may be appropriate.

- Either before proceeding to your new post or soon after your arrival.
  - Find out whether any treaty of friendship, commerce, and navigation, or similar agreement, is in force between our country and the host country, and whether it contains provisions relating to trade disputes. If so, you should be familiar with and be guided by the relevant provisions.

- Find out whether your host country is a signatory to the Geneva Convention or the New York Convention and whether our country has ratified either or both of those conventions. In the case of the Geneva Convention, find out if our country has concluded a bilateral agreement on reciprocity with your host country.
- Screen out and discourage any clearly frivolous or trivial complaints.
- Immediately transmit full details of any serious complaint that has been referred to you by a claimant to the other party, with a copy to our ambassador.
- Determine the facts of the case to the best of your ability. This may call for a more or less detailed investigation, documentary evidence, etc.
- Try to identify a basis for an amicable settlement between the two parties.
- If an amicable settlement is not possible, suggest conciliation.
- If conciliation is not acceptable to either one or both of the parties, find out whether arbitration is required under the contract. If not, suggest an appropriate arbitration procedure acceptable to both parties.
- Do not recommend legal action in national courts except as a last resort.

## C

### **Kinds of Complaints and How To Deal With Them**

Complaints may originate with.

- Local importer against an exporter in our country.
- Local exporter against an importer in our country.
- Our country's exporter against a local importer.
- Our country's importer against a local exporter.
- Private or a government entity in either country over a matter of infringement of industrial or property rights.
- An agency in either country, with respect to such matters as:
  - inspecting, testing or surveying goods;
  - collection of bad debts;
  - distress sales; and
  - possible legal action.

#### **1. Local Importer's Complaint Against Our Country's Exporter**

When the complaint is raised by a local importer concerning either the goods shipped and/or services provided, or the ethics, practices or performance of our country's exporter, ask the complainant to document the case and to outline what steps he/she has taken to settle the matter.

Complaints or claims against exporters are sometimes made after claims against the vessel concerned or against the underwriters of a marine insurance policy have been dismissed. Whenever shortages, damage, or quality deterioration are suspected, an importer should "act as if uninsured" and immediately lodge a claim against the vessel and insist on a survey when the vessel discharges, in accordance with the practice of the port. By not acting immediately, an importer can lose his/her rights against the vessel, and if a proper and timely survey is not undertaken, he/she may not be able to sustain a claim under the insurance policy. As a last resort, he/she may lodge a claim or complaint against the shipper concerned.

Claims or complaints relating to quality are frequently based on quality certificates. Whether issued by Camcontrol or other organs, these certificates, which generally accompany the shipping documents, usually certify the quality or condition of the goods at the time of shipment. Most complaints, however, relate to the quality of the goods at the time of discharge or later. Exporters normally accept responsibility only for ensuring that the goods are according to the contract when placed on board ship, and their contracts are usually worded accordingly.



**If the complaint appears to be legitimate and of substance, ask the complainant to supply you with a statement which sets out in detail.**

- 1.1. Names and addresses of all parties involved, and their respective roles in the transaction.
- 1.2. Nature of the transaction and the products involved.
- 1.3. Complete chronological account of the transaction, including information on:
  - 1.3.1. dates on which the goods were shipped from our country and received in the territory;
  - 1.3.2. name of the vessel;
  - 1.3.3. length of time and conditions of storage prior to any survey which may have been made;
  - 1.3.4. reason(s), if any, for delay if the period between the dates of delivery of the goods and of lodging the complaint is lengthy; and
  - 1.3.5. names and details of any certifying authorities or surveyors involved.
- 1.4. Copies of any exchange of correspondence, and any other pertinent documents, including, but not limited to:
  - 1.4.1. bills of lading or other transport document;
  - 1.4.2. invoices;
  - 1.4.3. survey and inspection certificates;
  - 1.4.4. out-turn guarantees; and
  - 1.4.5. survey reports.
- 1.5. A summary of the points of difference, the efforts made to effect settlement or compromise, and the position reached.
- 1.6. Type and extent of satisfaction sought, and whether monetary or otherwise.
- 1.7. Whether, in the event of continuing disagreement, the complainant would agree to conciliation or to arbitration, and if so the conciliation or arbitration proceedings that would be acceptable to him/her.

When you are satisfied that you have full information, send copies of the complainant's statement and documentation, translated if necessary, to the MoC or TPO at home. In a covering letter, give a brief, objective summary of the situation, and state what action you consider to be feasible or desirable. Ensure that your observations will help our authorities to carry out the necessary investigation.

## **2. Local Exporter's Complaint Against Our Country's Importer**

When the complaint is raised by a local exporter, you should normally suggest that he/she take up the matter with his/her country's trade diplomatic mission in our country. That mission will presumably deal with the matter in a way similar to the one described above.

Nevertheless, in exceptional circumstance of which examples are given below you might feel obliged to help.

- 2.1. The host government does not have a representative in our country or is unresponsive, or is unable or unwilling to respond.
- 2.2. You consider it desirable to assist in the interest of maintaining or strengthening important local contacts and mutual trade development.
- 2.3. Vital equipment is unavailable from other sources, raw materials are in short supply, and cost or delivery factors from other sources of supply are unfavorable.

Sympathetic attention within the limitations of your role and taking into account our government's position on the matter will promote our country's image as a reliable trading partner.

### **3. Our Country's Exporter Complaint Against a Local Importer**

You may receive this type of complaint either direct or through the MoC or TPO at home. The latter will have screened the complaint and verified the facts before passing it on to you. In either case, ensure that you have all the information you need to take the matter up with the local importer. If not, ask for it.

You should then seek a personal interview with the importer to present the case. Give him/her complete details of the complaint. Explain that while you have no authority to arbitrate or to adjudicate in the matter, our government wishes to help to settle any commercial disputes in the interests of the parties concerned and of harmonious trade relations.

If the importer maintains his/her position, ask for a written summary of his/her views, along with supporting documents. If he/she refuses to cooperate, inform him/her by registered mail that failure to do so within a reasonable time will compel you to report this rejection of your efforts to assist.



**When you have taken all possible action, report the outcome to the MoC or TPO at home, and then provide the following information.**

- 3.1. Names and addresses of all parties involved and their respective roles in the transaction.
- 3.2. Nature of the transaction (and products) involved.
- 3.3. The essence of the cases presented by complainant and respondent (supported by documentary evidence when available).
- 3.4. A description of your actions and the results, including the terms of any proposed settlement.
- 3.5. An account of any other factors relevant to the case.
- 3.6. Report on the current credit rating of the respondent and other local parties involved.
- 3.7. Suggestions for further action when amicable settlement appears unlikely.
- 3.8. Your views on the significance of the case and its implications, if any, for our traders.

### **4. Our Country's Importer Complaint Against a Local Exporter**

An importer from our country should first call on the local trade representative of your host government. However, if the complaint is lodged with you, take the following action.

- 4.1. Ask the importer for full details of the transaction all supporting documents, including but not limited to the following:
  - 4.1.1. test reports;
  - 4.1.2. ex dock or other inspection and other findings;
  - 4.1.3. surveyors' statements;
  - 4.1.4. shipping manifests; and
  - 4.1.5. landing certificates issued by port authorities, etc.
- 4.2. Promptly send copies to the exporter in your territory, retaining the originals against possible future legal action.
- 4.3. Discuss the problem in depth with the exporter.
- 4.4. Send the MoC or TPO, and through it, the importer at home a brief report on the local supplier's proposed solution, if any, and your own recommendations.
- 4.5. Inform the local supplier of our country's importer reply and make an effort to obtain an amicable settlement.
- 4.6. Try to protect the long-term interests of our country's buyers and suppliers and/or manufacturers by arriving at an amicable settlement through quiet diplomacy and persuasiveness.
- 4.7. If you conclude that mutual settlement of the dispute is impossible, you may suggest that the dispute be settled by conciliation and, if that fails, by arbitration.
- 4.8. If conciliation or arbitration is not possible and the matter has to be referred to a court of law in the host territory, you could provide our country's importer with the names of competent law firms in your territory.
- 4.9. When the matter is referred to a court of law, you should withdraw from the case, unless the parties agree to settle the matter out of court, with the court's permission. You should, however, monitor developments and submit a final report on the outcome.

## **5. Infringement of Industrial Property Rights**

Allegations of infringement of trade mark and copyright may be referred to you for investigation. Report the outcome to your TPO.

To investigate a case of this nature, you should have the following information.

- 5.1. Names and addresses of the complainant and of the offending party.
- 5.2. Substance of the complaint.
- 5.3. Sample (or photograph) of the subject of the complaint (product, mark, or design).
- 5.4. The extent to which the complainant considers himself/herself protected in his/her country and in other countries, including the one in which you are located, and copies of the patents, trade marks or copyrights quoted.
- 5.5. An account of the steps taken by the complainant to prevent or to stop the infringement and the results.

The verification of allegations frequently requires discretion. Representations to the host government, if authorized, may be required. As with the investigation of other forms of complaint, the MoC or TPO should be informed of the action taken, its results, and of any recommendations for further action. When a local firm or the host government complains

about alleged infringement in our country, obtain details similar to those suggested above and submit the information to the MoC or TPO for consideration.

## 6. Miscellaneous Complaints

In rare occasion you may be asked by importers/ exporters to inspect or to survey goods, to collect unpaid moneys, to arrange for the sale of rejected goods, to arbitrate a dispute, or to arrange for legal proceedings. As you are unlikely to be authorized to assume official responsibility in these matters, you should avoid any involvement whatsoever.



**The following actions are suggested.**

### 6.1. Inspecting, testing, or surveying

Provide the requesting party with a list of reputable and qualified firms or individuals. You could identify them by cross-checking names with customs clearing agents, importers' associations, chambers of commerce, and any relevant industrial association.

If testing or surveying facilities are not available locally and it is imperative that such services be performed promptly, and if you are authorized by our ambassador to do so at the request of both parties involved, you should select a board of two or three of the best-qualified people of high standing in the community and should be knowledgeable in the trade to investigate and to report their findings. It should be made clear to the disputants beforehand, however, that such a board and its findings may have little or no legal acceptability, and that the disputants must guarantee payment of any costs.

You should not undertake these services personally or in any circumstances give the impression that you are authorized to do this type of work. If asked to inspect a shipment of goods by the MoC or TPO, you should convey your views, impressions or findings on quantity, quality, or condition only to these authorities.

### 6.2. Collections

Unless otherwise authorized, limit yourself to providing a list of reputable and qualified collection agents.

### 6.3. Distress sales

When the local importer of goods from our country refuses or is unable to accept them, and the exporter seeks your help in their disposal, give prompt assistance, particularly if the goods concerned are perishable or may involve expensive storage.

Inform potential buyers of the details of the cargo and invite them to make offers or to enter into direct negotiations with the shipper. Alternatively, give the shipper the names of those interested. Avoid communicating proposals on price and other contractual terms.

If the situation has arisen as a result of local government action that prevents, for example, the entry of goods already on route or precludes the original buyer from carrying out his/her contractual obligations, obtain the approval of our ambassador

before you make representations to the local authorities.

#### 6.4. Local arbitration

In addition to the well-known arbitration courts discussed in the preceding chapter, some countries have arbitration facilities dealing with disputes between their citizens and contracting parties in other countries in all branches of foreign trade. Some branches of international trade use specialized arbitral institutions. Local chambers of commerce, trade associations, and similar groups also provide arbitration facilities of varying standards and procedures in trade centers throughout the world.

Parties to a dispute that have agreed to arbitration but differ in the choice of arbitration facilities may seek your opinion on the matter. Base your opinion on as much factual information as you can obtain. Much of this will come from the arbitration organizations themselves. You should, in addition, seek the views of those who have had recourse to the organizations concerned on their effectiveness as arbitrators. Here again your report should be forwarded to our own authorities only, and should cover such points as:

- 6.4.1. the ability of the organization to enlist competent arbitrators;
- 6.4.2. its standards and procedures;
- 6.4.3. its reputation for impartiality (citing instances if possible);
- 6.4.4. its preliminary requirements concerning the application for arbitration;
- 6.4.5. the legal, commercial, and general standing in the post territory of its awards;
- 6.4.6. the probable cost to each party irrespective of the final decision or award;
- 6.4.7. the type and amount of bond or other security required;
- 6.4.8. your view on the local trader's motive in proposing this particular arbitration body; and
- 6.4.9. the report on the current financial status of the local trader, together with an estimate of the assets available to meet an award against him/her.

#### 6.5. Litigation

Avoid at all times direct or indirect involvement in the conduct of a trade dispute, other than along the lines suggested.

“No justification should be provided for any allegation that you or our government has suggested, proposed, or recommended action that could be interpreted as being contrary to the interests of either party.”

The decision to obtain legal redress is that of the complainant alone. In reply to any inquiries regarding the costs or length of legal proceedings or concerning other matters connected with litigation, you may provide a list of competent and reliable lawyers and suggest that the inquiry be addressed to one of them.



## Chapter

# 25

## NATIONAL LEGAL SYSTEMS AND INTERNATIONAL HARMONIZATION

### A

#### Domestic Law

Every country has its own legal system. Each national legal system usually has two major components: private law, and public, or administrative law.

Private laws form the framework within which individuals and corporate entities define their relationships and settle their differences.

Public or administrative laws are those which the State imposes on individuals and corporate entities in order to regulate the relationships between and among them, and their relationships with the State.

### #

#### In commercial transactions between exporters and importers:

- ▶ **private law governs the conclusions and performance if an export/import contract; and**
- ▶ **public or administrative law regulates foreign trade.**

### 1. Private Law

This covers:

- 1.1. the formation of the contract of sale (including the designation of the parties, the description of the goods, and the terms of payment);
- 1.2. obligations of the seller (including the transfer of property and shipment;
- 1.3. obligations of the buyer (including taking delivery and payment);
- 1.4. ancillary contracts (including transport contracts, insurance contracts, and contracts with bankers); and
- 1.5. the settlement of disputes.

### 2. Public or Administrative Law

This includes:

- 2.1. regulations issued by the exporting country (e.g. on export licensing, foreign exchange, quality control, etc.); and

- 2.2. regulations issued by the importing country (e.g. import or quota restrictions; customs laws and regulations; import licensing; industrial, technical and health standards; packaging and labeling standards, etc.).

## **B** International Law

### **1. Private International Law**

These are the rules in legal systems that determine which national law shall be applicable in the event of a conflict between the laws of countries, e.g., a contract signed in New York, in the German language, to be performed in Greece, provides for arbitration according to the rules of the International Chamber of Commerce in Paris. As you can see, the laws of three countries could be involved. If the parties did not specify in the contract which of the three national laws should apply, the rules of private international law would guide the arbitration tribunal in deciding which national law would apply to the contract.

### **2. Public International Law**

This includes international treaties, conventions and bilateral and multilateral agreements between and Among States, or between States and international organizations. Some of these define trade relations between our country and the host country. You should also be familiar with international conventions that affect international transportation, copyrights, patents, and transfer of technology, and to which your home country is a party.

### **3. International Rules Without the Force of Law**

In international relations, there is a body of rules which do not have the force of law, but which are nevertheless important.<sup>63</sup> Some rules are universally applied and accepted. For example, the “uniform rules” made under the auspices of the International Chamber of Commerce (ICC) in Paris are not mandatory, because they are neither international conventions nor laws of any country. Nevertheless, they are almost universally applied. Examples are the ICC’s INCOTERMS, “Uniform Customs and Practice for Documentary Credits”, “Uniform Rules for Collection”, and “Uniform Rules for Contract Guarantees”.

In international trade relations, many “general conditions” are widely accepted, though they are imposed only by certain groups. Some conditions have been laid down by international organizations, such as the United Nations Economic Commission for Europe (ECE), and others by professional bodies such as the International Federation of Consulting Engineers (FIDIC) in Lausanne, Switzerland, the Liaison Group for the European Engineering Industries (ORGALIME) in Brussels, and various trade associations.

### **4. Harmonization of International Trade**

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<sup>63</sup> New rules are being developed which may not necessarily be mandatory. Their significance would lie in their acceptance and implementation in a large number of countries. They may take the form of “codes of conduct”, for example, the United Nations Center of Transnational Corporations in New York was seeking to establish a code of conduct for transnational corporations and another code on transfer of technology under the auspices of UNCTAD in Geneva.

Many countries are trying to facilitate international trade transactions by simplifying and standardizing procedures and systems. Considerable success has been achieved in the following areas.

- 4.1. International sale of goods.
- 4.2. International payments.
- 4.3. International commercial arbitration.
- 4.4. International transport.
- 4.5. Industrial property rights.
- 4.6. Intellectual property rights.

#### 4.6.1. International sale of goods

After several attempts to harmonize rules governing the international sale of goods, success was achieved in 1980, when the United Nations Convention on Contracts for the International Sale of Goods, proposed by the United Nations Commission for International Trade Law (UNCITRAL) was signed in Vienna.



#### **The Convention covers the following:**

- 4.6.1.1. sphere of application and general provisions;
- 4.6.1.2. formation of the contract;
- 4.6.1.3. obligations of the seller;
- 4.6.1.4. remedies for breach of contract by the seller;
- 4.6.1.5. obligations of the buyer, including payment, and delivery;
- 4.6.1.6. remedies for breach of contract by the buyer;
- 4.6.1.7. passing of the risk; and
- 4.6.1.8. mutual obligations of the seller and the buyer.

#### 4.6.2. International payments

Bills of exchange and promissory notes meet the same commercial needs throughout the world and are free from national peculiarities. Consequently, it has been possible to unify the law on a regional as well as on an international basis.



#### **As a result, there are now three main codes<sup>64</sup> on bills of exchange.**

- 4.6.2.1. The Geneva Uniform Law of 1930 prevails on the European continent, Latin America, and Japan.
- 4.6.2.2. The Bills of Exchange Act of 1882, as amended, forms the basis of the law on negotiable instruments in the United Kingdom and nearly the entire Commonwealth. This Act has also had a profound influence on the United States.
- 4.6.2.3. Article 3 of the Uniform Commercial Code.

<sup>64</sup> These three main codes diverge somewhat, which leads to difficulties when a bill of exchange circulates internationally. To rectify this situation, UNCITRAL in Vienna has developed a Convention for a Uniform Law on negotiable instruments used in international transactions.

As mentioned previously, ICC, in Paris, has formulated the “Uniform Customs and Practice for Documentary Credits”, which is used in over 150 countries. It contains rules for payment through documentary letters of credit<sup>65</sup> – the manner of payment most frequently used in international commercial transactions.

#### 4.6.3. International commercial arbitration

There are many international agreements in the field of arbitration. They are described in chapter 32.

#### 4.6.4. International legislation of transport

##### 4.6.4.1. Carriage by sea

Although increasingly being supplanted by the sea waybill, the basic instrument for carriage by sea is still the bill of lading (B/L). As a rule, the terms of a bill of lading are fixed and cannot be negotiated between the exporter, or “shipper” and the carrier (“ship-owner” or “charterer”).

If carriers were able to change terms of the bill of lading, they would have a tendency to exclude all liability for the goods they transport. This is why, in the 1920s, considerable international effort was put into creating fixed standards for bills of lading. The result was the Hague Rules of the International Law Association. These have been revised several times, and are now known as the Hague-Visby Rules. In 1978, the United Nations Convention on the Carriage of Goods by Sea was signed. These rules, which fundamentally revised the Hague-Visby Rules, are known as the Hamburg Rules.

##### 4.6.4.2. Carriage by air

Laws relating to the carriage of goods by air have attained a considerable degree of uniformity. The 1929 Warsaw Convention, which unified certain rules concerning international air carriage, was amended by the 1955 Hague Protocol, and was further supplemented by the 1961 Guadalajara Convention and the Montreal Additional Protocol of 1975. It must, however, be emphasized that not all air carriage contracts are governed by these principles. The basic document for carriage by air is the air waybill.

##### 4.6.4.3. Carriage by road

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<sup>65</sup> Documentary credit is a method of payment which can ensure that the exporter receives payment when the goods are dispatched – not when they are received by the customer. It also ensures that the customer is assured of title to the goods before he/she pays for them. The problems of our exporter at home and his/her overseas customer are solved by the intervention of a third party – a bank or more precisely, two banks: our exporter’s bank in our country and the importer’s bank in your territory. A documentary credit is merely a credit opened with a bank in the exporter’s favor. The word “documentary” indicates that the whole negotiation is linked with the shipping documents. Documentary credit is often called a “letter of credit or by the acronym LC”.

For carriage by road, the basic document is the Convention on the Contract for the International Carriage of Goods by Road, 1956, known as “CMR” (Convention relative au contrat de transport international de marchandises par route).

#### 4.6.4.4. Carriage by rail

The international carriage of goods by rail is regulated by the International Convention on Carriage of goods by Rail, signed for the first time in Berne in 1890, and known since 1961 as “CIM” (Convention internationale concernant le transport de marchandises par chemin de fer, 1961). This convention was amended in 1971.

#### 4.6.5. Industrial property rights

There are many other areas in which international agreements have become the internal law of various countries. One such area is that of patents and trade marks. The International Convention for the Protection of Industrial Property was first concluded in Paris in 1883, and has since been frequently revised, most recently in Stockholm in 1967. Nearly 100 countries are parties to the Convention.

It provides for the constitution of a Union for the Protection of Industrial Property. It is administered by the World Intellectual Property Organization (WIPO) in Geneva. It deals with the protection of patents, models, industrial designs, trade marks, service marks, and trade names – all of which are considered to be “industrial property” in the broadest sense.

The Convention gives added protection to applicants for patents.<sup>66</sup> A patent is an exclusive right to use an invention. This right is protected on the territorial principle, i.e., it is valid in the country in which it is granted. The Convention recognizes the priority right of the patent holder in one country to register his/her patent in another country. This priority right is good for 12 months following the date of application in his/her own country.

A European Patent Convention (1977) established the European Patent Office in Munich to serve 11 European countries. A patent holder may apply for protection in any or all member countries. When the European Patent Convention was established, a world-wide system for filing patent applications in a large number of countries came into force. This Patent Co-operation Treaty had 39 members at the beginning of 1985.<sup>67</sup>

#### 4.6.6. Intellectual property rights

The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) forms with the Multilateral Agreements on Trade in Goods and GATS the tripod for the WTO legal system. The objects of intellectual property are the creations of the human mind. The rights of creators of innovative or artistic work are known as intellectual property rights. They include copyright (which protects the rights of the authors of books and other artistic creations), patents (which protect the rights of

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<sup>66</sup> The Convention gives similar protection to trade marks.

<sup>67</sup> It is administered by the World Intellectual Property Organization (WIPO) in Geneva.

inventors) and industrial designs (which protect the rights to ornamental designs). They also cover trademarks and other signs that traders use to distinguish their products from those of others and thus build consumer loyalty and goodwill for their marks or brand names. The Agreement on TRIPS complements agreements on the protection of intellectual property rights developed by the WIPO. In particular, it prescribes minimum standards and periods for which protection should be granted to different intellectual rights. In doing so it takes on board the standards laid down in the WIPO Conventions and adds some more, particularly in the area of patents. Countries are further required not to discriminate among foreign nationals and between foreign and their own nationals in the acquisition, scope and maintenance of IPRs (extension of MFN and national treatment). An important feature of the TRIPS Agreement is that the standards of protection laid down in the WIPO Conventions have been made legally enforceable.



## Chapter

# 26

## ANNUAL REPORT AND ANNUAL WORK PROGRAMME

This chapter discusses the management and administration of your office, subjects that are likely to have been covered, at least in part, by standing instructions from the MoC, TPO or other ministries in Phnom Penh. It should help you to identify any gaps in these instructions and to consider how such gaps might be filled by adopting the techniques suggested. This chapter stresses the importance of an annual report (on a calendar-year basis) and an annual work programme (on a fiscal-year basis) and brings out the close relationship between these two essential tools of management.

### A Introduction

The annual report and annual work programme are the most important of the reports you have to prepare. The annual report should be prepared and sent to the MoC or TPO as soon as possible after the end of the calendar year, whereas the annual work programme, which is closely related to the annual report, should be prepared together with your budgetary estimates for the forthcoming fiscal year. Certain difficulties arise when, as is often the case, the fiscal year and the calendar year do not coincide.

This chapter provides guidelines for establishing procedures for periodic reporting and for defining work programmes. It reflects current practice in a number of national services.



#### **In the annual report you should.**

- Analyze economic and commercial conditions in your territory and describe how these conditions will affect your promotional programmes and our country's export strategies.
- Review the activities of the past calendar year at the post and assess how well the objectives of the annual work programme have been or are being achieved.
- Give the background of, and thereby justify, your proposals for the annual work programme for the coming fiscal year.

The report should help our authorities to evaluate your work proposals and budgetary estimates, and to modify them as necessary in the light of their own personnel and financial resources as well as their general policy objectives.

Through your annual work programme you should inform the MoC or TPO in detail about how you propose to organize your office's activities for the coming fiscal year. You should

set out the tasks that you intend to undertake, not only during the course of the year, but also in the future, as far as this is possible. An example of this would be a trade fair scheduled 18 months hence, but for which you must undertake a number of preparatory activities early in the fiscal period.

❶ The annual report is an assessment of the market and a description of what has happened in the past calendar year. It should contain your analysis of the extent to which your office has succeeded in meeting the targets and objectives set out in the previous and current fiscal year's annual work programme. ❷ The annual work programme is a costing plan of activities for the coming fiscal year. It is prepared at the same time as, and is a supporting document for, your office's budgetary estimates for that fiscal year. In ideal circumstances, it may be possible to submit it to our authorities together with your annual report for the calendar year just ended.

This may not be feasible, however. When the calendar year and the fiscal year overlap, for example by six months, your annual report would cover activities undertaken in the second half of the previous fiscal year (ending June, 30<sup>th</sup>) and the first half of the current fiscal year. Your annual report would thus be a final assessment of how the objectives of the annual work programme for the past fiscal year have been achieved, and a progress report on the work of the first six months of the current fiscal year.

## **B** The Annual Report

The following is a suggested general outline of a comprehensive annual report.

### **1. Economic and Commercial Overview**

- 1.1. Review principal economic policies, goals, and programmes. Include, if appropriate, a brief review of the national development plan.
- 1.2. Analyze major economic developments over the year. Include statement on exchange rates, government spending, and investment activity.
- 1.3. Explain the country's import policy and priorities, and briefly analyze any changes from the previous year.
- 1.4. Review the country's trade performance (import/export volumes, growth rates, principal products, and suppliers) and identify any major import growth areas.
- 1.5. Report, if appropriate, the activities of multilateral financing institutions (World Bank, regional development bank, etc.) and identify any major new capital investment and construction projects.

### **2. Bilateral Commercial Relations**

- 2.1. Market review, containing
  - 2.1.1. Narrative interpretation of the bilateral statistical data of the basic country report.
  - 2.1.2. Brief presentation on the importance of the market to home country, e.g., size, growth prospects, political conditions, etc.
  - 2.1.3. A discussion, as appropriate, of the following topics:
    - 2.1.3.1. financial considerations;
    - 2.1.3.2. marketing and distribution systems;

- 2.1.3.3. promotional techniques/strategies; and
- 2.1.3.4. relevant purchasing groups and authorities, etc.
- 2.1.4. An analysis of the market in general, by:
  - 2.1.4.1. examining the marketing methods and advantages of your principal competitors; and
  - 2.1.4.2. analyzing specific problem areas;
- 2.1.5. A list of specific recommendations as to what our country's exporters should or could do to enter, to remain in, or to expand their shares of, the market.

## 2.2. Market summary

Summarize, in chronological order, the year's significant marketing events at your post, in relation to the forecasts and targets of the previous year's annual work programme. This is an analysis of how well previously established targets have been met. Give reasons for any failure and describe how you plan to achieve your objectives in the future.

## 3. Introduction to the Next Annual Work Programme

- 3.1. Explain your reasons for any change in the focus of your activities;
- 3.2. Outline your costing proposals for major programmes; and
- 3.3. Give your recommendations for the coming period.

## 4. Statistical Annex

### 4.1. Responsive work

- 4.1.1. Trade inquiries processed (from exporters at home).
- 4.1.2. Trade inquiries processed (from local import community).
- 4.1.3. Trade inquiries processed (from the MoC or TPO).
- 4.1.4. Number of tender notices forwarded.
- 4.1.5. Number of local businessmen who visited your office.
- 4.1.6. Number of businessmen from home who visited your office.
- 4.1.7. Number of complaint cases you have processed.
- 4.1.8. Number, and titles, of reports you have prepared.

### 4.2. Initiatory work

- 4.2.1. Number of trade opportunity reports you have submitted.
- 4.2.2. Number of contacts established (in local business community).
- 4.2.3. Number of contacts established (in local government service).
- 4.2.4. Number of potential agents added to your Agency Index.
- 4.2.5. Number of market surveys conducted.
- 4.2.6. Number of new foreign direct investment opportunities uncovered.
- 4.2.7. Number, and titles, of reports prepared.

### 4.3. Business influenced

- 4.3.1. Number of new agency agreements concluded.
- 4.3.2. Number of new exporters successfully launched in the market.
- 4.3.3. Summary of export transactions in which your office had a major input (including settlement of complaints).

### 4.4. Other trade related activities

- 4.4.1. Number of trade missions from home organized/hosted.
- 4.4.2. Number of outgoing buying missions assisted.
- 4.4.3. Number of trade fairs and other exhibitions visited.
- 4.4.4. Number of trade fairs and other exhibitions organized.

4.5. Other commercial activities

- 4.5.1. Summary of investment promotion activities.
- 4.5.2. Summary of import procurement activities.
- 4.5.3. Summary of tourism promotion activities.

## **C Annual Work Programme**

Your annual work programme for the coming fiscal year is an indispensable adjunct to your annual report for the past calendar year. The proposals and plans of the former flow directly, from the activities discussed in the latter. Your annual work programme is intended to achieve the broad market development objectives established by the MoC or TPO. These objectives may have been derived from your own recommendation in earlier periods.

**Ω From your standpoint, the annual work programme has the following uses.**

### **1. It is the main organizational framework for your work. It:**

- 1.1. enables you to plan your activities, and those of others, in the most economical and productive way;
- 1.2. provides you and others with a check-list of the tasks and activities that you and they are expected to complete or to initiate;
- 1.3. provides target dates and objectives against which you can measure your progress;
- 1.4. provides estimated costs for budgetary purposes; and
- 1.5. in addition to being a link between the past and the future, it is a device for coordinating your operations with those of the MoC or TPO.

### **2. From the standpoint of the MoC or TPO**

- 2.1. It is a tool for monitoring and controlling your operations.
- 2.2. It enables the MoC or TPO to know in advance how it can support you in the implementation of the approved programme and to make the necessary preparations in a timely manner.
- 2.3. It enables the MoC or TPO to gauge your workload before allocating additional tasks to you.
- 2.4. It provides the MoC or TPO with a basis for evaluating your performance.

The annual work programme should include all preparatory activities, however far in the future they may be, leading to a projected event. Explain why each activity has been selected for inclusion in the annual work programme and how its accomplishment will contribute to achieving an export market development objective. And to the extent possible, even if, only notionally, estimate the costs of each programmed activity.

### **3. Scope of the annual work programme**

The annual work programme is an implementation plan, agreed with the MoC or TPO, supported by individual programme summary sheets of standard design. Each sheet should correspond to a specific market development programme and sub-programme.



**Such sub-programmes might cover, but should not be limited to.**

- 3.1. Our country's products with export potential in your territory.
- 3.2. Foreign direct investment in our country.
- 3.3. Import procurement support activities.
- 3.4. General trade relations – any matters that require special attention.
- 3.5. Promotion of tourism in our country.
- 3.6. Your anticipated representational activities.

Include such varied activities as establishing new contacts, conducting market surveys, the organization of trade fairs and exhibitions, the servicing of trade missions, and so on. In short, cover any clearly identifiable activity, dated if possible, and budgeted out as accurately as you can. Your objective in doing this is to provide, to the degree possible, detailed justification for all budgetary items.

Most likely, you won't be able to forecast with complete precision the amount of time you and your staff will be required to devote to work arising from unscheduled requests for information or action, casual business visitors, unexpected but inevitable events that impose an added workload and that you must undertake in response to the needs of the organizations and people you serve. Nevertheless, such an estimate can be made on the basis of similar work during the previous planning period. Make an estimate of these and associated costs in your annual work programme. If a reliable estimate is not feasible, your annual work programme should state that your un-programmed time will be taken up by routine activities such as running the office, attending to casual visitors, writing reports, answering trade inquiries, supervising the work of subordinates, etc.

#### **4. Timing**

Your annual work programme should be prepared at least eight or nine months before the start of the fiscal year to which it refers. It should be submitted to our authorities, together with your budget proposal, for approval. Unless your proposals are accepted immediately and fully, a dialogue with Phnom Penh should ensue. The objective of this dialogue is to reach agreement on a balanced programme that meets all priorities and is within the limits of the human and financial resources that can be devoted to it. Phnom Penh, of course, has the final word, but you should be given ample opportunity to express your views and to justify your proposals. The more fully reasoned and documented your proposals are initially, the better your chances of having your programme approved in its entirety or with a minimum of change.

The "Implementation Timetable" of the approved programme provides you with dated targets. It is your action plan, against which both you and the MoC or TPO should measure your progress throughout the year. When the programme is approved, you should, in consultation with each staff member concerned, prepare individual instructions giving details

of his/her assignments, the starting and completion dates, etc. This will enable you to monitor your staffs performance throughout the period covered.

## **D** Periodic Reports

In addition to your annual report and its associated annual work programme, you may be requested to send a brief statistical summary of your office's activities to the MoC or TPO on a monthly or a quarterly basis. These summaries could follow the outline of the statistical annex of tile annual report. This would vastly simplify the job of compiling the statistical annex at the end of the calendar year, since the latter would involve nothing more than adding up your monthly or quarterly statistics, together with the figures for the final period.

In a very brief narrative introduction to each statistical summary, review any important trade or commercial developments which may have occurred during the period. In particular, outline briefly the degree to which the agreed annual work programme is being executed, identify any actual or anticipated difficulties, analyze their causes, and make specific recommendations on how to resolve them. These summaries should be submitted as soon as possible after the end of the period to which they refer.

