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SELLING YOUR PRODUCTS IN THE UNITED STATES *

INTRODUCTION

Exports from Vietnam to the United States grew dramatically after the US-Vietnam Bilateral Trade Agreement was ratified on December 10, 2001. In 2001 Vietnam's exports to the US were US$1 billion; in 2012, exports exceeded US$20 billion. The US is now Vietnam's largest single export market.

Today, another agreement stands to dramatically alter trade relations between Vietnam and the US: the Trans-Pacific Strategic Economic Partnership Agreement (TPP). While this agreement will create new challenges and opportunities for Vietnamese exporters, most of the fundamental issues involved in exporting to the US will remain the same.

As the world's largest economy, the US can be an intensely competitive market. Because of its wealth and scale, the government can set tough restrictions and consumers can form very high expectations. To succeed as an exporter, it is important to ensure not just that your product will meet those restrictions and expectations, but that it will have some advantage to set it above the competition.

Although the US is one economy, it is an economy comprised of many different market segments, with lifestyles and preferences that vary greatly from one demographic group and region to another. Even if your product is not successful in one market segment, it may be very successful in others.

For these reasons, to export to the US, your company must be well prepared.

THE TRANS-PACIFIC STRATEGIC ECONOMIC PARTNERSHIP AGREEMENT (TPP)

The TPP is a free-trade agreement between 11 Pacific Rim countries: Australia, Brunei, Chile, Canada, Malaysia, Mexico, New Zealand, Peru, Singapore, the US and Vietnam. Once in effect, the agreement will eliminate tariffs between TPP members for exporters meeting certain strict requirements.

Current estimates suggest that, while all member countries will see exports increase as a result of the TPP, Vietnam will experience the largest percentage increase. However, the agreement includes a provision that requires exporters to only use imports from other TPP members in order to qualify for tariff eliminations. Many Vietnamese exporters will not be able to meet this requirement without substantially altering their supply chains.

* The material in this paper is current as of July 2013.

KNOW YOUR MARKET

In order to succeed, the exporter must know both the markets in which the components or raw materials are sourced and the market in which the finished product will be sold.

1. Is There Demand For Your Product?

The first step is to determine whether there is demand in the US for the product you plan to offer. It is much easier to supply demand than to create it.

The Bureau of Economic Analysis (www.bea.gov) provides general data about the US economy, including industry sizes and trends.

More detailed information about products within a specific industry will be available from a variety of sources, including:

- Government agencies that regulate the industry. For example, the US National Marine Fisheries Service provides extensive statistical data about the current state of the market for seafood in the US (www.st.nmfs.noaa.gov/commercial-fisheries/publications/index).
- US industry associations. For example, the American Apparel & Footwear Association (www.wewear.org/industry-resources/publications-and-statistics).
- Government entities in other countries involved in exporting similar products to the US, such as Industry Canada (www.ic.gc.ca/eic/site/tdo-dcd.nsf/eng/home).

WHAT ARE THE CORNERSTONES OF A SUCCESSFUL EXPORT BUSINESS?

- General business knowledge and experience – after all, general principles apply equally to the export business.
- Knowledge of the special rules that apply to an export business.
- Thorough knowledge of the product.
- Thorough knowledge of the market.
- Knowledge of the costs of bringing the product to the market.
- Good working relationships with distributors.
- Knowledge of price structure – from wholesale to retail.
- Working capital.

2. Market Research

Once you have found a market, you should learn as much about that market as possible. Market research can range from highly structured analysis conducted by an outside consulting firm to an informal approach, with the exporter asking the right people the right questions.

The greater the distance between product and market – and therefore the greater the time and cost to get it to the ultimate consumer – the more important market research becomes. Domestic suppliers may be in a better position than international traders to serve their customers on a timely basis. Therefore, importers need to stay ahead of the market.

3. What is the Market?

What type of individual and what type of business in the US constitute the natural target for your product?

- Is the individual from a particular age, ethnic, social, or economic group? Are the buyers largely male or female?
- Is the individual more interested in fashion or more interested in quality and durability?
- Is the individual interested in the snob appeal of the item?
- Is the person more interested in the price?
- Is the person interested in the "story" that goes with the item?
- Is the person already buying the product or do you have to educate him to buy the product, and your product specifically?
- What need does the product fill?

4. Where is the Market?

The US is an enormous and varied country. You should identify specific market segments that you are interested in by geographic location. These locations might be neighborhoods, cities, larger metropolitan areas, states or regions, depending on your resources and the nature of your product. A clear definition of the market will keep your marketing efforts focused.

- Who needs the product and why?
- Is the product purchased only once or occasionally, or is it purchased, consumed (or made obsolete), and then replaced?
- What makes the product different and desirable?
- Where does one find the people who need the product?
- What criteria lead to acceptance/rejection?
- List prospective market areas that could support a sales effort for the product.
- Test the markets to determine where marketing efforts will be most productive.

5. Contact Potential Buyers/Customers

An exporter that knows its market and customers will always be in a position to offer what the customer needs, rather than trying to sell what's in stock.

If possible, seek out likely customers in the US (such as distributors, wholesalers, and retailers). Develop good rapport, and ask them:

- What do you need?
- What are your customers asking for?
- What is selling well?
- What is hard or difficult to find?
- Which items are costing more than they should?
- What products would you order right now?
- How much would you pay?
- Would you pay in advance for those goods?
- Would you pay COD (cash on delivery) or do you require a period of time to pay?
- If so, what terms would you require?
- What stores and businesses are interested in these goods?

WHY DO EXPORT BUSINESSES FAIL?

Some fail because the exporter:

- Thinks exporting goods to the US is the same as selling to local customers;
- Lacks sufficient understanding of the US domestic market;
- Is not totally familiar with his product or is unable to discern differences in quality, specifications, or price that are relevant to the intended market;
- Fails to factor in all the costs involved in order to bring the product to market;
- Has inadequate working capital for the size and scope of its operations;
- Is unable to guard against foreign exchange fluctuations;
- Is unable to maintain good working relationships with US distributors, customers, or other parties, such as freight forwarders, customs brokers, bankers, and attorneys.
- Is unable to meet strict US Customs regulations, including those for:
  - Marking and labeling
  - Quotas
- Is unable to meet government regulatory requirements, such as those for:
  - Product safety
  - Quality standards

6. Quality

The buyer defines quality. The exporter must make sure that it understands its customers' requirements. Most merchandise markets in the US have very narrow ranges of acceptable quality. Each market has its own minimum standards of acceptability and maximum price. The exporter must know the range of quality for its product in the US target market.

7. Seasonality of Merchandise

An exporter must get its merchandise to the buyer at the appropriate time. The exporter must know the seasonality of its merchandise and the

lead times required. An exporter must schedule backwards from the date the customer needs the goods. For example, if an item is being purchased to sell retail at Christmas, the retailer should have it in stock by mid-November.

The following movements of merchandise may each take from several days to several weeks to accomplish. The exporter has to allow for each step in its planning. Working backward, these steps are:

- Retailer's warehouse to retail store shelves;
- The importer's warehouse to the retailer's warehouse;
- Clearance through US Customs;
- Transport from overseas port to US port of entry;
- Transport from point of manufacture in the exporting country to port of export;
- Manufacturing time; and
- Preliminary research, planning and design.

The total process can take from several weeks to more than a year!

Know Your Competition

Here are a number of questions you might ask concerning your competition.

- What products are competitive with ours?
- Who and where are our competitors?
- How are their products marketed?
- How and why does their marketing work or not work?
- What are the weak points in their marketing organization?
- What are their short- and long-range plans?
- What business problems are they facing?
- Do they have any unusual advantages?
- What is the extent and quality of their research and development effort?
- What new products are they developing?
- Who and where are their suppliers?
- What are they paying for merchandise?
- What supply problems do they have?
- If they have labor problems, why?
- What are their manufacturing costs?
- How do our products compare with theirs?
- How many middlemen handle their product before it reaches the consumer?
- What are their sales terms, credit requirements, and commissions?
- What payment terms and commissions are extended to distributors, to sales people, and to retailers of their goods?
- How are their goods advertised?
  - Promotion techniques?
  - Media?
  - What is the extent of their advertising?
- How does the marketplace view our products compared to theirs?
- How good is their after-sales service?
- How does their pricing compare to ours?
- How are the above factors likely to change?
- What does the competition know about us?

Ways to Enter the US Market

Depending on your resources and the nature of your product, there may be many different ways to enter the US Market.

1. Direct Selling. Methods include:

- Establishing a US presence. This can be done by opening a US branch or a seperate subsidiary. While a US presence is a difficult way to enter the market, there are clear advantages. You may be able to set up a retail presence, for example, and you may be able to mitigate the perception of your product as foreign.
- Selling by catalog or direct mail. Although diminishing, these methods are still common. They require creating a targeted mailing list and a system for processing orders, payments, and returns.
- Selling online. US online retail sales are estimated to top US$260 billion in 2013 and to increase by 10% every year until 2017. Due to intense competition and consumer expectations, you will need a highly polished and professional online presence, along with a reliable and efficient system for processing orders, payments, and returns.

- US trade shows. Unless you have a US work visa, you will not be able to accept money for goods at trade shows in the US, but you can take orders and then ship products on your return to Vietnam.

Online Marketplaces

US consumers are increasingly buying products from online marketplaces, such as Amazon and eBay. These organizations allow you to list products on their websites and willl process customer orders for you, in return for certain fees. You are usually responsible for shipping items directly to consumers, although in some cases a marketplace will store and ship items.

An advantage of online marketplaces is that listing products is relatively easy and does not require any technical expertise. These marketplaces also have very large established customer bases – Amazon and eBay each receive tens of millions of visitors per week. A major disadvantage is that these marketplaces are intensely competitive, with highly price-conscious consumers.

A further difficulty is that consumers rely on reviews (also called "feedback") written by previous customers in deciding what to buy. Without a significant number of positive reviews, your company will be at a disadvantage. It may be necessary to initially sell products at a discount to encourage sales and build a base of positive reviews.

You will also be at a disadvantage if you are shipping products direct to consumers from Vietnam. To avoid negative reviews, you should ensure that customers are aware of product shipping times before placing orders.

Exporters using these websites remain subject to US trade laws and regulations. Even if not appropriate as a long-term solution, an online marketplace may be a good way for an exporter to test the market for a product and get valuable feedback from US consumers.

2. Selling Through Intermediaries. Common intermediaries include distributors, trading houses, and representatives (i.e., agents). With an intermediary, you get an immediate presence in the US without setting up your own sales operation, but you face a greater separation from your customer base and less control over the marketing of the product, amongst other issues.

- Distributors. A distributor will buy your product, import it, and sell it to end users. Disadvantages include lower profit margins, less control, and less knowledge about your US customers.
- Representatives/agents. Unlike distributors, representives do not buy the product; instead, they work on commission. They often specialize in particular products or industries and sell to a particular set of customers. A representative will contract with a US customer on your behalf and monitor the deal until completion.
- Trading houses. These firms handle the entire process of exporting your product to the US. However, you will not have a chance to develop your own exporting experience and knowledge, and you will have little to no control over the way your product is represented and sold in the US.

3. Business Partnerships, Acquisitions, and Investments. These methods can make operating in the U.S. considerably easier for exporters, as they help resolve problems related to accreditation, movement of personnel, and US tax and legal status. When setting up such arrangements, however, it is very important to make use of lawyers, accountants, bankers and other professionals, so that all parties are sure of their rights and responsibilities.

The Customs Process

The process of importing goods into the US is governed by laws and regulations administered by Customs and Border Protection (CBP). CBP has the primary responsibility for regulating international trade, collecting import duties, and

enforcing US trade laws. All items entering the US must clear CBP and are subject to duty unless specifically exempted by law.

Most companies hire a customs broker at the port of entry to arrange CBP clearance for them. The customs broker presents an "entry notice" to CBP with the information required for clearance, makes the necessary payments, and arranges onward transport of the goods. For the merchandise to be delivered to the importer or owner while CBP review is taking place, a monetary bond is necessary. The bond contains a condition for the redelivery of the shipment, or a portion of it, upon the demand of CBP.

There are also additional government agencies that work with the CBP to regulate specific industries, such as the Food and Drug Administration (FDA) and the Bureau of Alcohol, Tobacco, and Firearms (ATF). These agencies impose standards and requirements above those of the CBP.

COUNTRY-OF-ORIGIN LABELLING

With some exceptions, all merchandise entering the US must be marked with the English name of the country of origin. The marking must be located in a conspicuous place, as permanently as the nature of the article permits. Difficulties can arise in determining the country of origin for goods using materials from more than one country, and goods manufactured or assembled in more than one country.

PRODUCTS THAT ARE DIFFICULT TO IMPORT

The following products are "difficult" to import into the US because of additional regulatory requirements. With a few exceptions, it is possible to import these products, but one must be prepared.

- **Drugs**. Highly regulated by the FDA; extensive requirements regarding quality, labelling, packaging, and manufacturing facilities (including inspections).

- **Alcoholic Beverages**. Highly regulated by the ATF; import permit required; additional labeling requirements, compliance with products standards of content, other federal, state, and municipal alcohol regulations, federal excise tax payable at entry.

- **Meat, Poultry, and Egg Products**. Highly regulated by the US Department of Agriculture (USDA). Countries must apply for eligibility to export these products to the US. Currently, Vietnam is not eligible.

- **Seafood**. Highly regulated by the FDA, in conjunction with the National Marine Fisheries Service (NMFS) and the Fish and Wildlife Service (FWS). Some categories of seafood are subject to quotas and country-specific embargos, while other categories are subject to country-specific anti-dumping and anti-subsidy duties.

- **Toys**. Highly regulated by the US Consumer Product Safety Commission (CPSC). Since 2008, all toys must be certified prior to sale based on testing performed by a CPSC-approved laboratory. Extensive reporting, record keeping, and labelling requirements also apply.

- **Live Animals**. Highly regulated by the US Public Health Service (PHS), Centers for Disease Control (CDC), FWS, USDA, and FDA, depending upon species. Restricted port of entry, quarantine, prior notification, license, import/export documentation, record keeping, and other requirements, depending upon species. There are also state-specific limitations and requirements.

- **Prepared Foods**. Subject to strict FDA regulations. Entry notification, certification, extensive labeling requirements, compliance with product standards, including ingredient-specific requirements, and entry notification.

- **Electrical products**. To meet federal safety standards, certain electrical products require approval by a Nationally Recognized Testing Laboratory (NRTL). Where not required by the law, purchasers may still demand such approval. There are FDA and Federal Communication Commission (FCC) regulations for some electrical products.

Legal and Regulatory Issues

Significant legal and regulatory issues include the following:

- **Duty**. Goods entering the US are subject to duty in accordance with their classification under the Harmonized Tariff Schedule, unless specifically exempted by law. While duty is the responsibility of the importer of record, in some cases the exporter is the importer of record. Once it has taken effect, the Trans-Pacific Strategic Economic Partnership Agreement (TPP) will greatly advantage Vietnamese exporters by eliminating duty under certain conditions.

- **Taxes**. The US applies taxes to both businesses and individuals, and has two different levels of tax jurisdiction: federal and state. Income tax applies at both levels, but sales tax (the equivalent of VAT) applies only at the state level. Generally, the exporter will not be responsible for these taxes unless the exporter has established a physical presence in the US.

- **Sanctions**. The Office of Foreign Assets Control (OFAC) applies sanctions that prohibit the import of items originating in certain countries, as well as sanctions designed to prevent activities such as the sale of conflict diamonds and narcotics, or the funding of terrorism.

- **Bribery**. The US has very well-developed laws to prevent the bribery of public officials. Penalties can be severe.

- **Litigation**. Business-related litigation is more common in the US than in Vietnam. Individuals or groups can sue businesses on the grounds that their products or services were faulty and and caused harm. Exporters commonly buy product liability insurance (PLI) and potential business partners may require you to purchase such coverage.

Further Sources of Information

There are many sources of information regarding selling products in the US.

- Ho Chi Minh City, Investment and Trade Promotion Center (ITPC)
- Vietkieu, Vietnamese, students and businessmen returning from the US
- American Chamber of Commerce in Vietnam
- US attorneys in Vietnam
- US banks with operations in Vietnam
- US importers with experience and connections in Vietnam
- US and domestic trade publications
- Shipping companies
- US Customs brokers and freight forwarders
- US trade and industry associations
- Industry trade shows in the US
- Foreign businessmen from the US
- Dun & Bradstreet www.dnb.com
- US Department of Commerce, International Trade Administration trade.gov
- The US Department of Customs and Border Protection (CBP) trade website www.cbp.gov/xp/cgov/trade
- The US Food and Drug Administration (FDA) industry website www.fda.gov/ForIndustry/default.htm
- The US Department of Agriculture (USDA) www.usda.gov
- The US International Trade Commission (ITC), Harmonized Tariff Schedule www.usitc.gov/tata/hts

Exporting to the US can be very profitable, but, like any other business, it is important to be well informed and well prepared.