



**UNIVERSIDAD DE LAS  
AMÉRICAS, A.C.**  
Ciudad de México

**WORKSHOP PRACTICE MANUAL  
AD-462  
INTERNATIONAL MARKETING**

Fall 2007

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# PRESENTATION

## ii Welcome to your Business Practice!!

We are delighted to participate with you in this practice experience in which you will have the opportunity to incorporate your theorist-practical knowledge that you will have acquired in your International Marketing Subject.

This practice manual, will help you to consolidate your knowledge, to apply techniques and tools, to acquire abilities, with the purpose of team work.

### GENERAL OBJECTIVE

To recognize the global market characteristics, also to understand the necessity of a strategic alliance with the global strategies of marketing. To prepare the student to design small projects of investigation and cases. In addition, the student will establish a complete system of exportation of the country chosen at the end of the course.

### METHODOLOGY

This course is developed in the active pedagogical framework and each student must work hard inside and outside of the classroom. . Before each session the student should study the chapters and readings, and create answers to the questions of the problems and exercises previously assigned.

Reading tests, answers to the probable questions and difficulties on the theory application of each practical case will be solved and made in each section.

Each student is responsible for their own learning; the teacher will try to help on this process, providing some tools, explaining concrete facts and creating an environment of academic and investigation curiosity.

### PROFESIONAL ABILITIES AND VALUES TO DEVELOP DURING THE COURSE:

#### ABILITIES:

**Organization:** Capacity to plan, execute and subsequently articulate a group of activities of a specific plan or a project with time and space limits and with some existing sources and some sources to be obtained.

**Teamwork:** Ability to accept and commit responsibly of distributing, sharing and receiving demands between members of the group, to search and reach common objectives of the group. .

**Analysis:** Capacity to examine an objective or a complex situation and appreciate its parts and elements and the relation between these.

**Communication:** Ability to read different kind of contexts with complete comprehension to emit critical judges of that content.

Ability to write letters, reports, essays in correct, ordered and clear Spanish needed to an easy understanding of readers.

Oral communication ability in different contexts: dialogues, presentations, speeches.

**Under pressure work:** Capacity to keep calm, manners and the sense of a high volume work to make with quality and response time

**Information Management:** Capacity to define the application and importance of data and information.

**Permanent Individual Learning:** Ability to define the interest area or subject; search the information in texts, articles, audiovisual material, internet, external people, plan and study.

Computational Abilities: Including the use of Windows, Excel, Mail, Power Point and specialized software.

### **VALUES:**

**Responsibility:** Give advice of their own acts and tasks assigned.

**Integrity:** Be irreproachable and consistent on what is said, believed and done.

**Honesty:** Proceed with honesty, rectitude and veracity in all life actions.

**Intellectual Curiosity:** Extend own knowledge frontiers.

**FOR THE ADEQUATE WORKSHOPS DEVELOPMENT, YOU MUST TAKE IN COUNT THE FOLLOWING CONSIDERATIONS:**

This Manual contents the basic cases to develop the practical learning experiences from International Marketing Subject.

The solution of the cases will allow the best comprehension of the course.

The attached cases will complement the theory and they will be solved in a workshop form in independent sessions.

**It is necessary to take in count the following considerations:**

1. In this manual you will found real cases to apply the concepts, tools, and techniques seen in class. Theoretical knowledge will be refreshed previously .
2. The practices will be solved in the classroom, on the stipulated dates.
3. During the practical cases, you will use the appropriate software just like you use it in real life working for a company.
4. Teams will be organized by 4 students each, selected by random.
5. You will have your teacher as an advisory.
6. The solution of the cases will be done as in real life working for a company.
7. Once the cases have been solved, the teacher will ask randomly for a team to present the results.
8. The teacher will analyze and discuss the results, doing the appropriate feedback
9. In the subsequent practice class, the students will present an executive report.
10. To evaluate the practice, the teacher will take in count the following criteria : Teamwork, results, presentation and executive report.
11. The practices will have a minimum 30% ponderation for the total course evaluation.

12. Finally, you must be punctual getting to the classroom, after 10 minutes the student will not be able to be in class, consequently the student will not have a grade for that class.

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## **GENERAL GUIDELINES TO RESPOND CASES**

### **INFORMATION THAT SHOULD BE INCLUDED TO SOLVE THE WRITTEN CASES**

When written for classroom presentation, the case should include company background, product information, industry background, the problem situation itself and the facts bearing on the problem and question, all according to the objective pursued with the case and pertinent available information.

#### **Company Background**

The student should seek and present pertinent information about the company's organization and objectives, the company's financial condition and its profitability, something about the personality of its key officers or the personnel in question in the case, and there should be some information about the company location as it is particularly relevant.

#### **Product Information**

Information should be presented concerning the specific product in question its relationship to the company's product line. The product mix should be reviewed, specifically as it pertains to the product's contribution to sales volume and profit. Information about the specific product as compared to competing products, a very straightforward description of the exact purpose and use of the product and, when necessary, something about production cost, production efficiency, volume and production capability.

#### **Industry Background and Competitive Situation**

The student should provide as much information as is pertinent about the structure of the industry, and its trends. He or she should probably mention the number of suppliers and their names, and something about the market share patterns, the degree and type of competition, and where the company fits in the competitive picture. It is often beneficial to indicate some of the competitors' advantages and disadvantages.

#### **Market Structure**

Basic information should be provided relative to the size, relative structure, and composition of the market for the product.

#### **Problem Situation Background**

The student should indicate how the problem arose, how important it is, and should provide a specific and precise definition of the problem or problems. The problem must have two or more sides or alternative solutions which are quite practicable. If a problem does not have two or more sides, it is not a problem but a foregone conclusion. Often a problem will have subproblems and these may or may not be identified in the case. In most cases they probably should be discovered and student should provide the subproblem alternatives.

**Presentation of Facts Bearing on the Problem**

As much pertinent information as is possible should be given without giving away the solution. The facts may be drawn from the company itself or from the library research and other outside research on the problem. In many situations the facts provided by the company are not adequate and others should be included when absolutely necessary but such fiction must be clearly identified in the student's original paper. Double underlining such as this will be employed.

**Questions**

The case provides questions which identify the main problem areas and sub- or related problem areas and may include questions related to the effects of possible solutions on other areas of the company's business operation.

**Solution**

The student is required to develop his own solution to the case. If possible, he/she should answer the question which has been posed and should review the advantages and shortcomings of the main alternative solutions. In this way student will be best prepared to answer classroom questions and it may be that the process of working out the solution will force you to rethink and restructure your solution(s). If the problem has been solved by the company, the solution should provide information pertaining to the method in which it was solved but should still consider other alternatives.

# WORKSHOP PRACTICE

Licenciatura en Administración de Empresas  
AD-413 International Marketing  
Formation Area: Marketing

<b>Case 1</b>	<b>Concept of Global Marketing</b>
<b>Place:</b>	Classroom
<b>Length:</b>	2 hours
<b>Lecturer:</b>	
<b>Objective:</b>	This case is designed to engage students in searching on the Internet and to illustrate how two international companies that market worldwide, are very different on many dimensions.

Activities during workshop:

1. Review the concept International marketing
  - 1.1. Global commerce causes peace
  - 1.2. Stages of international involvement
    - 1.2.1. No direct foreign marketing
    - 1.2.2. Infrequent foreign marketing
    - 1.2.3. Regular foreign marketing
    - 1.2.4. International marketing
    - 1.2.5. Global marketing
  - 1.3. Strategic orientation
    - 1.3.1. Domestic market extension
    - 1.3.2. Multidomestic market
    - 1.3.3. Global marketing orientation
2. Practice procedure
  - 2.1. Prior class you have to visit web pages and answer the questions.
  - 2.2. Group will be divided in two, each part will represent one company
  - 2.3. Each group will present their strengths and weakness of the other company and defend its approach.

## UNILEVER AND NESTLE: AN ANALYSIS

Although both Unilever and Nestlé have engaged in international marketing their entire corporate existences, they are very different companies in their approaches to international marketing and their corporate philosophies. Both companies maintain very extensive websites. Your challenge in this case is to visit both websites, carefully read the information presented, and write a report comparing the two companies on the points that follow.

1. Philosophies on international marketing
2. Corporate objectives
3. Global coverage, that is, number of countries in which they do business
4. Production facilities
5. Number of product categories and number of brands within each category
6. Number of standardized versus global brands for each
7. Product categories and brands where the two companies compete
8. Brands that are standardized, that is, what is standardized in each brand and what is localized in each brand
9. Product research centers
10. Organization
11. Environmental concerns
12. Research and development

After completing your analysis, write a brief statement about the area(s) where Unilever is stronger than Nestlé and vice versa.

See [www.unilever.com](http://www.unilever.com) and [www.nestle.com](http://www.nestle.com)

# WORKSHOP PRACTICE

Licenciatura en Administración de Empresas  
AD-413 International Marketing  
Formation Area: Marketing

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<b>Case 2</b>	<b>Cultural environment</b>
<b>Place:</b>	Classroom
<b>Length:</b>	2 hours
<b>Lecturer:</b>	
<b>Objective:</b>	Understand the role of environmental factors in shaping international marketing strategies; the impact of ethnocentric thinking on overseas investments; create awareness of the need for adaptation (versus the desire for standardization) of company marketing policies abroad; emphasize the importance of market forecasting and assumptions about consumer response to foreign products and services; cultural conflicts between buyers and sellers; and issues involved in developing international marketing strategies, tactics and policies.

Activities during workshop:

1. Review the global significance of a correct and profound culture analysis concept International marketing
  - 1.1. Culture Definitions
  - 1.2. Cultural knowledge
    - 1.2.1. Factual versus interpretive knowledge
    - 1.2.2. Cultural sensitivity and tolerance
  - 1.3. Cultural values
  - 1.4. Cultural change
2. Practice procedure
  - 2.1. Prior class you have to visit web pages and answer the questions.
  - 2.2. Prepare your written report according to the general guidelines given in this manual.
  - 2.3. Group discussion to find right answer.
  - 2.4. Each group will present their strengths and weakness of the other company and defend its approach.

## The Not-So-Wonderful World of EuroDisney

In April 1992, EuroDisney SCA opened its doors to European visitors. Located by the river Marne some 20 miles east of Paris, it was designed to be the biggest and most lavish theme park that Walt Disney (Disney) had built to date—bigger than Disneyland in Anaheim, California; Disneyworld in Orlando, Florida; and Tokyo Disneyland in Japan. In 1989, EuroDisney was expected to be a surefire moneymaker for its parent Disney, led by Chairman Michael Eisner and President Frank Wells. Since then, sadly, Wells was killed in an air accident in spring of 1994, and EuroDisney lost nearly \$1 billion during the 1992-1993 fiscal years.

Much to Disney management's surprise, Europeans failed to "go goofy" over Mickey, unlike their Japanese counterparts. Between 1990 and early 1992, some 14 million people had visited Tokyo Disneyland, with three-quarters being repeat visitors. A family of four staying overnight at a nearby hotel would easily spend \$600 on a visit to the park. In contrast, at EuroDisney, families were reluctant to spend the \$280 a day needed to enjoy the attractions of the park, including les hamburgers and les milkshakes. Staying overnight was out of the question for many because hotel rooms were so high priced. For example, prices ranged from \$110 to \$380 a night at the Newport Bay Club, the largest of EuroDisney's six new hotels and one of the biggest in Europe. In comparison, a room in a top hotel in Paris cost between \$340 and \$380 a night.

In 1994, financial losses were becoming so massive at EuroDisney that Michael Eisner had to step in personally in order to structure a rescue package. EuroDisney was put back on firm ground. A two-year window of financial peace was introduced, but not until after some acrimonious dealings with French banks had been settled and an unexpected investment by a Saudi prince had been accepted. Disney management rapidly introduced a range of strategic and tactical changes in the hope of "doing it right" this time. Analysts are still trying to diagnose what went wrong and what the future might hold for EuroDisney.

**A Real Estate Dream Come True** - Expansion into Europe was supposed to be Disney's major source of growth in the 1990s, bolstering slowing prospects back home in the United States. "Europe is our big project for the rest of this century," boasted Robert F. Fitzpatrick, chairman of Euro Disneyland in spring 1990. The Paris location was chosen over 200 other potential sites stretching from Portugal through Spain, France, Italy, and into Greece, Spain thought it had the strongest bid based on its year-long, temperate, and sunny Mediterranean climate, but insufficient acreage of land was available for development around Barcelona.

In the end, the French government's generous incentives, together with impressive data on regional demographics, swayed Eisner to choose the Paris location. It was calculated that some 310 million people in Europe live within two hours' air travel of EuroDisney, and 17 million could reach the park within two hours by car—better demographics than at any other Disney site. Pessimistic talk about the dismal winter weather of northern France was countered with references to the success of Tokyo Disneyland, where resolute visitors brave cold winds and snow to enjoy their piece of Americana. Furthermore, it was argued, Paris is Europe's most popular city destination among tourists of all nationalities.

According to the master agreement signed by the French government in March 1987, 51 percent of EuroDisney would be offered to European investors, with about half of the new shares being sold to the French. At the time, the project was valued at about FFr 12 billion (\$1.8 billion). Disney's initial equity stake in EuroDisney was acquired for FFr 850 million (about \$127.5 million). After the public offering, the value of Disney's stake zoomed to \$1 billion on the magic of the Disney name.

Inducements by the French government were varied and generous:

- Loans of up to FFr 4.8 billion at a lower-than-market fixed rate of interest.
- Tax advantages for writing off construction costs.
- Construction by the French government, free of charge, of rail and road links from Paris out to the park. The TGV (très grande vitesse) fast train was scheduled to serve the park by 1994, along with road traffic coming from Britain through the Channel Tunnel, or Chunnel.
- Land (4,800 acres) sold to Disney at 1971 agricultural prices. Resort and property development going beyond the park itself was projected to bring in about a third of the scheme's total revenues between 1992 and 1995. As one analyst commented "EuroDisney could probably make money without Mickey, as a property development alone." These words would come back to haunt Disney in 1994 as real estate development plans were halted and hotel rooms remained empty, some even being closed during the first winter.

**Spills and Thrills** - Disney had projected that the new theme park would attract 11 million visitors and generate over \$100 million in operating earnings during the first year of operation. EuroDisney was expected to make a small pretax profit of FFr 227 million (\$34 million) in 1994, rising to nearly FFr 3 billion (\$450 million) in 2001. By summer 1994, EuroDisney had lost more than \$900 million since opening. Attendance reached only 9.2 million in 1992, and visitors spent 12 percent less on purchases than the estimated \$33 per head. European tour operators were unable to rally sufficient interest among vacationers to meet earlier commitments to fill the park's hotels, and demanded that EuroDisney renegotiate their deals. In August 1992, Karen Gee, marketing manager of Airtours PLC, a British travel agency, worried about troubles yet to come: "On a foggy February day, how appealing will this park be?" Her winter bookings at that time were dismal.

If tourists were not flocking to taste the thrills of the new EuroDisney, where were they going for their summer vacations in 1992? Ironically enough, an unforeseen combination of transatlantic airfare was and currency movements resulted in trip to Disneyworld in Orlando being cheaper than a trip to Paris with guaranteed good weather and beautiful Floridian beaches within easy reach.

EuroDisney management took steps to rectify immediate problems in 1992 by cutting rates at two hotels up to 25 percent, introducing some cheaper meals at restaurants, and launching a Paris ad blitz that proclaimed "California is only 20 miles from Paris".

**An American Icon** - One of the most worrying aspects of EuroDisney's first year was that French visitors stayed away; they had been expected to make up 50 percent of the attendance figures.

Two years later, Dennis Spiegel, president of the International Theme Park Services consulting firm, based in Cincinnati, Ohio, framed the problem in these words: "The French see EuroDisney as American imperialism—plastics at its worst". The well-known, sentimental Japanese attachment to Disney characters contrasted starkly with the

unexpected and widespread French scorn for American fairy-tale characters. French culture has its own lovable cartoon characters such as Astérix, the helmeted, pint-sized Gallic warrior who has a theme park located near EuroDisney. Parc Astérix went through a major renovation and expansion in anticipation of competition from EuroDisney. Hostility among the French people to the whole "Disney-idea" had surfaced early in the planning of the new project. Paris theater director Ariane Mnouchkine became famous for her description of EuroDisney as "a cultural Chernobyl." A 1988 book, Mickey: The Sting, by French journalist Gilles Smadja denounced the \$350 million that the government had committed at that time to building park-related infrastructure. In fall 1989, during a visit to Paris, Michael Eisner was pelted with eggs by French Communists. Finally, many farmers took to the streets to protest against the preferential sales price of local land. The joke going around at the time was, "For EuroDisney to adapt properly to France, all seven of Snow White's dwarfs should be named Grumpy (Grincheux)".

Early advertising by EuroDisney seemed to aggravate local French sentiment by emphasizing glitz and size, rather than the variety of rides and attractions. Committed to maintaining Disney's reputation for quality in everything, Chairman Eisner insisted that more and more detail be built into EuroDisney. For example, the centerpiece castle in the Magic Kingdom had to be bigger and fancier than in the other parks. He ordered the removal of two steel staircases in Discoveryland, at a cost of \$200,000 to \$300,000, because they blocked a view of the Star Tours ride. Expensive trams were built along a lake to take guests from the hotels to the park, but visitors preferred walking. An 18-hole golf course, built to adjoin 600 new vacation homes, was constructed and then enlarged to add another 9 holes. Built before the homes, the course cost \$15 to \$20 million and remains underused. Total park construction cost were estimated at FFr 14 billion (\$2.37 billion) in 1989 but rose by \$340 million to FFr 16 billion as a result of all these add-ons. Hotel construction costs alone rose from an estimated FFr 3.4 billion to FFr 5.7 billion.

EuroDisney and Disney managers unhappily succeeded in alienating many of their counterparts in the government, the banks, the ad agencies and other concerned organizations. A barnstorming, kick-the-door-down attitude seemed to reign among the U.S. decision makers. Beatrice Descoffre, a French construction industry official, complained that "They were always sure it would work because they were Disney". A top French banker involved in setting up the master agreement felt that Disney executives had tried to steamroller their ideas. "They had a formidable image and convinced everyone that if we let them do it their way, we would all have a marvelous adventure".

Disney executives consistently decline to comment on their handling of management decisions during the early days, but point out that many of the same people complaining about Disney's aggressiveness were only too happy to sign on with Disney before conditions deteriorated. One former Disney executive voiced the opinion, "We were arrogant-it was like 'We're building the Taj Mahal and people will come-on our terms.'"

**Storm Clouds ahead** - Disney and its advisors failed to see signs at the end of the 1980s of the approaching European recession. As one former executive said, "We were just trying to keep our heads above water. Between the glamour and the pressure of opening and the intensity of the project itself, we didn't realize a major recession was coming". Other dramatic events included the Gulf War in 1991, which put a heavy brake on vacation travel for the rest of that year. The fall of communism in 1989 after the destruction of the Berlin Wall provoked far-reaching effects on the world economy, National defense industries were drastically reduced among Western nations.

Foreign aid was requested from the West by newly emerging democracies in Eastern Europe. Other external factors that Disney executives have cited in the past as contributing to their financial difficulties at EuroDisney were high interest rates and the devaluation of several currencies against the franc.

Difficulties were also encountered by EuroDisney with regard to competition. Landmark events took place in Spain in 1992. The world's Fair in Seville and the 1992 Olympics in Barcelona were huge attractions for European tourists. New parks were planned for Spain by Anheuser-Busch, with its \$300 million Busch Gardens near Barcelona, as well as Six Flags Corporation's Magic Mountain park, to be located in Marbella.

Disney management's conviction that it knew best was demonstrated by its much-trumpeted ban on alcohol in the park. This proved insensitive to the local culture because the French are the world's biggest consumers of wine. To them a meal without un verre de rouge is unthinkable. Disney relented. It also had to relax its rules on personal grooming of the projected 12,000 cast members, the park employees. Women were allowed to wear redder nail polish than in the United States, but the taboo on men's facial hair was maintained. "We want the clean-shaven, neat and tidy look", commented David Kannally, director of Disney University's Paris branch. The "university" trains prospective employees in Disney values and culture by means of a one-and-a-half-day seminar. EuroDisney's management did, however, compromise on the question of pets. Special Kennels were built to house visitors' animals. The thought of leaving a pet at home during vacation is considered irrational by many French people.

Plans for further development of EuroDisney after 1992 were ambitious. The initial number of hotel rooms was planned to be 5,200, more than in the entire city of Cannes on the Cote d'Azur. This number was supposed to triple in a few years as Disney opened a second theme park to keep visitors at the EuroDisney resort for a longer stay. There would also be a huge amount of office space, 700,000 square meters, just slightly smaller France's largest office complex. La Defense in Paris. Also planned were shopping malls, apartments, golf courses, and vacation homes. EuroDisney would design and build everything itself, with a view to selling at a profit. As a Disney executive commented with hindsight, "Disney at various points could have had partners to share the risk, or buy the hotels outright. But it didn't want to give up the upside".

Disney management wanted to avoid two costly mistakes it had made in the past: letting others build the money-making hotels surrounding a park (as happened at Disneyland in Anaheim), and letting another company own a Disney park (as in Tokyo, where Disney just collects royalties). This time, along with 49 percent ownership of EuroDisney would receive both a park management fee and royalties on merchandise sales.

The outstanding success record of Chairman Eisner and President Wells in reviving Disney during the 1980s led people to believe that the duo could do nothing wrong. "From the time they came on, they had never made a single misstep, never a mistake, never a failure" said a former Disney executive. "There was a tendency to believe that everything they touched would be perfect." This belief was fostered by the incredible growth record achieved by Eisner and Wells. In the seven years before EuroDisney opened, they took Disney from being a company with \$1 billion in revenues to one with \$8.5 billion, mainly through internal growth.

Dozens of banks, led by France's Banque Nationale de Paris, Banque Indosuez, and Caisse des Depots & Consignations, eagerly signed on to provide construction loans. One banker who saw the figures for the deal expressed concern. "The company was overleveraged. The structure was dangerous." Other critics charged that the proposed financing was risky because it relied on capital gains from future real estate transactions.

The Disney response to this criticism was that those views reflected the cautious, Old World thinking of Europeans who didn't understand U.S.-style free market financing. Supporters of Disney point out that for more than two years after the initial public offering of shares, the stock price continued to do well, and that initial loans were at a low rate. It was the later cost overruns and the necessity for a bailout at the end of the first year that undermined the initial forecasts.

Optimistic assumptions that the 1980s boom in real estate in Europe would continue through the 1990s and that interest rates and currencies would remain stable led Disney to rely heavily on debt financing. The real estate developments outside EuroDisney were supposed to draw income to help pay down the \$3.4 billion in debt. That in turn was intended to help Disney finance a second park close by- an MGM Studios film tour site-that would draw visitors to help fill existing hotel rooms. None of this happened. As a senior French banker commented later in 1994, EuroDisney is a "good theme park married to a bankrupt real estate company and the two can't be divorced."

**Telling and Selling Fairy Tales** -Mistaken assumptions by the Disney management team affected construction design, marketing and pricing policies, and park management, as well as initial financing. For example, parking space for buses proved much too small. Restroom facilities for drivers could accommodate 50 people; on peak days there were 200 drivers. With regard to demand for meal service, Disney executives had been erroneously informed that Europeans don't eat breakfast. Restaurant breakfast service was downsized accordingly, and guess what? "Everybody showed up for breakfast. We were trying to serve 2,500 breakfasts in a 350-seat restaurant [at some of the hotels]. The lines were horrendous. And they didn't just want croissants and coffee. They wanted bacon and eggs" lamented one Disney executive. Disney reacted quickly, delivering prepackaged breakfasts to rooms and other satellite locations.

In contrast to Disney's American parks where visitors typically stay at least three days, EuroDisney is at most a two-day visit. Energetic visitors need even less time. Jeff Summers, an analyst at debt broker Klesch & Company in London, claims to have "done" every EuroDisney ride in just five hours. "There aren't enough attractions to get people to spend the night," he commented in summer 1994. Typically many guests arrive early in the morning, rush to the park, come back to their hotel late at night, then check out the next morning before heading back to the park. The amount of check-in and check-out-traffic was vastly underestimated when the park opened; extra computer terminals were installed rapidly in the hotels.

In promoting the new park to visitors, Disney did not stress the entertainment value of a visit to the new theme park. The emphasis on the size of the park "ruined the magic", said a Paris based ad agency executive. But in early 1993, ads were changed to feature Zorro, a French favorite; Mary Poppins; and Aladdin, star of the huge money-making movie success. A print ad campaign at that time featured Aladdin, Cinderella's castle, and a little girl being invited to enjoy a "magic vacation". A promotional package was offered -two days, one night, and one breakfast at an unnamed EuroDisney hotel -for \$95 per adult and free for kids. The tagline said, "The kingdom where all dreams come true".

Early in 1994 the decision was taken to add six new attractions. In March the Temple of Peril ride opened, Storybook Land followed in May; and the Nautilus attraction was planned for June. Donald Duck's birthday was celebrated on June 9. A secret new thrill ride was promised in 1995. "We are positioning EuroDisney as the No.1 European destination of short duration, one to three days", said a park spokesperson. Previously no effort had been made to hold visitors for a specific length of stay. Moreover, added the spokesperson, "One of our primary messages is, after all, that EuroDisney is affordable to everyone". Although new package deals and special low season rates substantially offset costs to visitors, the overall entrance fee has not been changed and is higher than in the United States.

With regard to park management, seasonal disparities in attendance have caused losses in projected revenues. Even on a day-to-day basis EuroDisney management has had difficulty forecasting numbers of visitors. Early expectations were that Monday could be a light day for visitors, and Friday a heavy one. Staff allocations were made accordingly. The opposite was true. EuroDisney management still struggles to find the right level of staffing at a park where high-season attendance can be ten times the number in the low season. The American tradition of "hiring and firing" employees at will is difficult, if not impossible, in France, where workers' rights are stringently protected by law.

Disney executives had optimistically expected that the arrival of their new theme park would cause French parents to take their children out of school in midseason for a short break. It did not happen, unless a public holiday occurred over a weekend. Similarly, Disney expected that the American-style short but more frequent family trips would displace the European tradition of a one month family vacation, usually taken in August. However, French office and factory schedules remained the same, with their emphasis on an August shutdown.

**Tomorrowland** - Faced with falling share prices and crisis talk among shareholders, Disney was forced to step forward in late 1993 to rescue the new park. Disney announced that it would fund EuroDisney until a financial restructuring could be worked out with lenders. However, it was made clear by the parent company, Disney, that it "was not writing a blank check".

In November 1993, it was announced that an allocation of \$350 million to deal with EuroDisney's problems had resulted in the first quarterly loss for Disney in nine years. Reporting on fourth-quarter results for 1993, Disney announced its share of EuroDisney losses as \$517 million for fiscal 1993. The overall performance of Disney was not, however, affected. It reported a profit of nearly \$300 million for the fiscal year ending September 30 1993, thanks to strong performance by its U.S. theme parks and movies produced by its entertainment division. This compared with a profit of \$817 million for the year before.

The rescue plan developed in fall 1993 was rejected by the French banks. Disney fought back by imposing a deadline for agreement of March 31, 1994, and even hinted at possible closure of EuroDisney. By mid-March, Disney's commitment to support EuroDisney had risen to \$750 million. A new preliminary deal struck with EuroDisney's lead banks required the banks to contribute some \$500 million. The aim was to cut the park's high-cost debt in half and make EuroDisney profitable by 1996, a date considered unrealistic by many analysts.

The plan called for a rights offering of FFr 6 billion (about \$1.02 billion at current rates) to existing shareholders at below market prices. Disney would spend about \$508 million to buy 49 percent of the offering. Disney also agreed to buy certain EuroDisney park assets for \$240 million and lease them back to EuroDisney on favorable terms. Banks agreed to forgive 18 months of interest payments on outstanding debt and would defer all principal payments for three years. Banks would also underwrite the remaining 51 percent of the rights offering. For its part, Disney agreed to eliminate for five years its lucrative management fees and royalties on the sale of tickets and merchandise. Royalties would gradually be reintroduced at a lower level.

Analysts commented that approval by EuroDisney's 63 creditor banks and its shareholders was not a foregone conclusion. Also, the future was clouded by the need to resume payment of debt interest and royalties after the two-year respite.

**Prince Charming Arrives** - In June 1994, EuroDisney received a new lifeline when a member of the Saudi royal family agreed to invest up to \$500 million for a 24 percent stake in the park. Prince Al-Walid bin Talal bin Abdul-Aziz Al-Saud is a well-known figure in the world of high finance. Years ago he expressed the desire to be worth \$5 billion by 1998. Western-educated, His Royal Highness Prince Al-Walid holds stock in Citicorp worth \$ 1.6 billion and is its biggest shareholder. The prince has an established reputation in world markets as a "bottom-fisher," buying into potentially viable operations during crises when share prices are low. He also holds 11 percent of Saks Fifth Avenue and owns a chain of hotels and supermarkets, his own United Saudi commercial Bank in Riyadh, a Saudi construction company, and part of the new Arab Radio and Television Network in the Middle East. The prince plans to build a \$ 100 million convention center at Euro Disney. One of the few pieces of good news about EuroDisney is that its convention business exceeded expectations from the beginning.

The prince's investment could reduce Disney's stake in EuroDisney to as little as 36 percent. The prince agreed not to increase the size of his holding for 10 years. He also agreed that if his EuroDisney stake ever exceeds 50 percent of Disney's, he must liquidate that portion.

The prince loves Disney culture. He has visited both EuroDisney and Disney world. He believes in the EuroDisney management team. Positive factors supporting his investment include the continuing European economic recovery, increased parity between European currencies the opening of the Channel, and what is seen as a certain humbling in the attitude of Disney executives. Jeff Summers, analyst for Klesch & Company in London, commented on the deal, saying that Disney now has a fresh chance "to show that Europe really needs an amusement park that will have cost \$5 billion.

**Management and Name Changes** - Frenchman Philippe Bourguignon took over at EuroDisney as CEO in 1993 and has navigated the theme park back to profitability. He was instrumental in the negotiation with the firm's bankers, cutting a deal that he credits largely for bringing the park back into the black.

Perhaps more important to the long-run success of the venture were his changes in marketing. The pan-European approach to marketing was dumped, and national markets were targeted separately. This new localization took into account the differing tourist's habits around the continent. Separate marketing offices were opened in London, Frankfurt, Milan, Brussels, Amsterdam, and Madrid, and each was charged with tailoring advertising and packages to its own market. Prices were cut by 20 percent for park admission and 30 percent for some hotel room rates. Special promotions were also run for the winter months.

The central theme of the new marketing and operations approach is that people visit the park for an "authentic" Disney day out. They may not be completely sure what that means, except that it entails something American. This is reflected in the transformation of the park's name. The "Euro" in EuroDisney was first struck in the logo, and the word "land" added. Then in October 1994 the "Euro" was eliminated completely; the park is now called Disneyland Paris.

In 1996 Disneyland Paris became France's most visited tourist attraction, ahead of both the Louvre Art Museum and the Eiffel Tower, 11.7 million visitors (a 9 percent increase from the previous year) allowed the park to report another profitable year. However the architect of this remarkable recovery left the firm. Despite a promotion to executive vice president of Disney's European operations, Mr. Bourguignon resigned to become chairman of Club Med Mediterranee. Some say he was interested in another turn-around project-Club Med had had big problems, including huge losses in customers and profits. Others conjecture that Mr. Bourguignon's departure had more to do with big challenges facing Disneyland Paris in the immediate future. That is financial concessions given by bankers and shareholders as part of the restructuring were gradually beginning to expire, and some analysts saw storm clouds again on the horizon.

**Theme Park Expansion in the 21st Century** - With the recovery of Disneyland Paris, the division embarked on an ambitious growth plan. In 2001 the California Adventure Park was added to the Anaheim complex at a cost of \$1.4 billion. Through agreements with foreign partners, Disney will also open three new theme parks, in Tokyo Seas, also to be opened in 2001), Paris, and Hong Kong, during the next five years while spending only \$400 million of its own money to do so. Executives are hoping that the return on that investment will be in the neighborhood of 30 percent, based on licensing fees and entrance fees.

#### Questions

1. What factors contribute to EuroDisney's poor performance during its first year of operation?
2. To what degree do you consider that these factors were a) foreseeable and b) controllable by either EuroDisney or the parent company, Disney?
3. What role does ethnocentrism play in the story of EuroDisney's launch?
4. How do you assess the cross-cultural marketing skills of Disney?
5. Do you think success in Tokyo predisposed Disney management to be too optimistic in their expectation of success in France? Explain.
6. Do you think the new theme park would have encountered the same problems if a location in Spain had been selected? Explain.
7. Assess Disney's new expansion strategy. Does their current approach of limited investment make sense in all new markets? If not, where not? Explain.
8. Now that Disney has succeeded in turning around Disneyland Paris and has begun work on the new Hong Kong location, where and when should it go next? Assumed you are a consultant hired to give Disney advice on the issue of where and when to go next. Pick three locations and select the one you think will be the best new location for "Disneyland X" and explain why.
9. Resume the experience at EuroDisney, make a check list of things not to forget in the following Disney's project.

# WORKSHOP PRACTICE

Licenciatura en Administración de Empresas  
AD-413 International Marketing  
Formation Area: Marketing

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<b>Case 3</b>	<b>Legal Environment</b>
<b>Place:</b>	Classroom
<b>Length:</b>	2 hours
<b>Lecturer:</b>	
<b>Objective:</b>	Companies weary of the time-consuming, costly and unpredictable nature of litigation are considering alternative means of resolving disputes with other organizations. The usage of some of these, including mediation, arbitration and moderated conference are examined.

Activities during workshop:

1. Review the global significance of a correct and profound culture analysis concept International marketing
  - 1.1. Bases for Legal Systems
    - 1.1.1. Common and Code Law
    - 1.1.2. Islamic Law
    - 1.1.3. Marxist-Socialist Tenets
  - 1.2. Jurisdiction in International Legal Disputes
  - 1.3. International Dispute Resolution
    - 1.3.1. Conciliation
    - 1.3.2. Arbitration
    - 1.3.3. Litigation
  - 1.4. Protection of Intellectual Property Rights
    - 1.4.1. Inadequate Protection
    - 1.4.2. Prior Use versus Registration
    - 1.4.3. International Conventions
  - 1.5. Commercial Law within Countries
    - 1.5.1. Marketing Laws
    - 1.5.2. Green Marketing Legislation
    - 1.5.3. Antitrust
2. Practice procedure
  - 2.1. Prior class you have to read the article and answer the questions.
  - 2.2. Prepare your written report solicited in questions section.
  - 2.3. Group discussion to find consensus answer.

Overcoming the pathology of litigation: an ADR primer for executives  
(alternate dispute resolution)  
Wyatt McDowell; Lyle Sussman.

**“I was ruined but twice—once when I gained a lawsuit, and once when I lost one.”  
Voltaire**

The chief executive officer of a multinational company looked anxiously and pessimistically across a long oak conference table at the plaintiff and her counsel. In the lawyer's mind the facts were clear. His client was sexually harassed, the liability was unquestionable, and the damage amounted to a grave injustice. The CEO, along with the chief legal counsel, listened intently to what was said and thoughtfully considered the claims and projected damages as he contemplated a response.

With the prospect of a mega-dollar judgment hanging over their heads, they sat uneasily at the table. As the plaintiff's counsel continued the frontal assault, he briefly explained options the corporation might consider as dispute resolution processes, including mediation and arbitration. Encouraged by the ability to resolve the conflict in a private forum, the company officials listened intently to the proposal. They were definitely struck by the possibility of minimizing loss and saving face during a potentially gut-wrenching situation.

With this in mind, the CEO made clear his interest in exploring this more compatible, less combative, and more comfortable approach to resolving the problem before them. The plaintiff's counsel smiled and said, "I'm glad we're in agreement. Let's move to an equitable win-win resolution."

This scenario is both hypothetical and illustrative. Every day in this country, vendors, employees, and customers decide whether their anger and sense of injustice warrants further action. They must decide whether to raise the stakes of their disagreement through litigation.

The scenario also suggests, however, that litigation is not the only alternative available. Alternative Dispute Resolution (ADR) is an option many are considering. This article presents a primer on ADR for executives who may one day need it but have yet to study its importance, dynamics, and implications.

#### The Historical Background of ADR

Alternative Dispute Resolution is an encompassing term that refers to using alternate methods—other than formal court litigation—to resolve a dispute or controversy. ADR methods commonly employed to resolve disputes include mediation, arbitration, summary jury trial, mini-trial, and moderated settlement conference.

ADR is deeply rooted in human history. One of the most notable applications of its use is reflected in the ancient, biblical story about King Solomon. The dispute involved two women who petitioned the king to resolve their child custody conflict. Both women had given birth to a child at about the same time, but one of the children was suffocated by the mother, who had inadvertently rolled onto the child during the night. Upon waking and finding the dead child, the mother laid claim to the other child as her offspring. When confronted with the claim of each mother, King Solomon decreed that the guards settle the dispute by cutting the child in half so that each woman could be given half. King Solomon's wisdom brought a constructive resolution to the dispute because the real mother chose to renounce her claim to the child rather than witness his murder.

Other references to ADR can be found in ancient histories, biblical texts, and other early reports throughout Anglo-American traditions. The historical applications of ADR have been endemic in the conflict resolution processes of tightly knit religious and ethnic groups: the Puritans in the 1600s, the Dutch in New Amsterdam, the Jews on Manhattan's East Side, the Scandinavians in Minnesota, and the Chinese on the West Coast.

ADR became formally institutionalized in the United States in 1922, when business leaders established a new educational organization called The Arbitration Society of America. This organization was a prime lobbying force in creating the passage of the Federal Arbitration Act of 1925, which made arbitration clauses in interstate contracts enforceable and created the framework upon which modern business arbitration agreements are structured. Through the organization's merger with the fledgling Arbitration Foundation, founded in 1924, the American Arbitration Association (AAA) was formed in 1926. Since its inception, the AAA has played a seminal role in creating the "American" style of commercial arbitration, maintaining standards for arbitration competency and training, and protecting the arbitrator immunity from liability.

In the time since ADR became institutionalized in the United States and was championed by numerous agencies, notably the American Arbitration Association, the methods for resolving conflicts and disputes have undergone a number of refinements. Out-of-court techniques have been used to resolve family controversies, warranty claims, patent disputes, building design and construction problems, organizational conflicts, massive tort actions, security/investment firm malpractice cases, and hazardous waste cleanup controversies. The dramatic role the AAA has played in facilitating ADR processes is perhaps best reflected by its impact. Of the approximately 60,000 cases administered by AAA, nearly 90 percent were settled out of court rather than through formal litigation.

#### Who Uses ADR And How Credible Is It?

Consumers, lawyers, clients, and the judiciary system greatly value ADR for a number of compelling reasons. As stated by the noted Harvard law professor, Lawrence Tribe, ADR is preferred over litigation because the latter entails "too much law, too little justice, too many rules, too few results." In 1976, the late Chief Justice of the United States Supreme Court, Warren B. Burger, voiced prophetic concern about the irrelevance of our formal legal system to the problems of most Americans:

We may well be on our way to a society overrun by hordes of lawyers, hungry as locusts, and brigades of judges in numbers never before contemplated .... We have reached the point where our system of justice—both state and federal—may literally break down before the end of the century.

Justice Burger's concerns were indeed prophetic when compared with contemporary realities. Data indicate that our state court systems handled more than 93 million cases in 1991. And the pattern does not seem to have abated.

The most extensive use of ADR has been in the labor management arena, with almost all unionized contracts having some form of binding dispute resolution, principally arbitration. ADR has also been a prominent means of dispute

resolution in major league sports, particularly the resolution of individual contractual disputes, in which salary arbitration has been used. For example, ADR played a dominant role in the resolution of the polarizing major league baseball strike of 1994.

ADR is gaining additional momentum in the financial and banking world. In the case of *Badie v. Bank of America* (San Francisco Superior Court 1994), a California court upheld the binding contractual obligation of parties to credit card controversies to submit such matters to binding arbitration at the request of either party. ADR also attained added prominence when the American Bar Association established a Section of Dispute Resolution in 1993. The significance of this development is far-reaching in that emphasis is placed on ADR to resolve international disputes, including contractual disputes, cross-cultural negotiations, and general business and environmental disputes. The emphasis comes from a group of stakeholders (attorneys) who have a vested interest in protracted litigation. The judicial system has also incorporated ADR. Seventeen states have adopted court-sanctioned ADR programs, which provide for the courts to refer matters to ADR rather than afford the parties a trial in the first instance. Moreover, the federal government has also supported ADR initiatives. The Civil Justice Reform Act of 1990, the Negotiated Rulemaking Act of 1990, and the Administrative Disputes Resolution Act of 1990 target efforts to reduce the expenses and the delays associated with litigation. This last act requires all federal agencies to develop policies providing for the voluntary use of ADR.

Many major industries and businesses have reported vast expansion in the use of ADR. Brokerage and security firms have used it (primarily arbitration) for a number of years. The National Basketball Association, the National Football League, and major league baseball use only ADR to resolve individual contract matters between management and players. A number of automobile manufacturers, including foreign firms, are using ADR to resolve disputes with dealers and satisfy warranty claims with customers who allege product failures and defects.

What are the Major Advantages and Disadvantages of ADR?

McCarty and Bagby (1993) discuss the most significant and positive advantages associated with the uses of ADR versus the litigation process usually employed. These include:

- It takes "less time to resolve the dispute from the beginning of the controversy." Litigation can take upwards of two years or more to obtain resolution, whereas ADR provides for a quicker resolution with a modest window of time—on average, from six months to a year.
- There is "less cost because of attorney fees, less time away from work by corporate employees, [and] lower 'court' costs for [the] prevailing party." The cost is diminished simply because less time and fewer resources are committed to obtaining resolution by corporate employees and attorneys representing the parties.
- "Parties can select a more experienced decision-maker or facilitator rather than being randomly assigned to a judge." On the basis of a profile or knowledge of the potential decision maker, the parties themselves decide who will preside over the matter. With litigation, the clerk of court makes a random assignment and the person selected may or may not have the essential knowledge to handle the matter properly.
- "Parties select where the dispute will be heard; they are not bound to use the court system where each party does business." The court usually has a rigid calendar that is influenced by a number of forces over which the judge may not have any control. For example, a case expected to last two weeks may go on for seven. Consequently, there is a ripple effect delaying the calendar of cases that follow.
- "The no adversarial nature of ADR makes it easier to do business in the future with an opponent." The parties are actively involved in solving a problem and are not passive participants. Parties who are able to solve their problems without major confrontation are likely to view the experience as positive and not be reluctant to engage in contractual relationships in the future.
- "The informality of ADR methods is less formidable than are the evidentiary rules governing court procedures." ADR processes are usually not bound by the strict rules of evidence. Therefore, the ability to put all the facts on the table for exploration of settlement enhances resolution of disputes.
- "ADR is more confidential than litigation, which becomes a matter of public record." Hearings are not open to the public, and the public has no right to be present. Accordingly, the parties often restrict participation in the proceedings to those people invited to attend by the respective disputants.
- The key drawbacks and disadvantages of ADR, continue McCarty and Bagby, are:
- "The longer time frame for litigation may be advantageous to one of the parties if it will have to make a payment to the other party once the dispute is resolved." For example, disputants who are without money and are likely to have the obligation of making the monetary payment to resolve a dispute would naturally defer settlement until they have the wherewithal to pay. Accordingly, passage of time naturally decreases both the cost to the defendant and the value of the plaintiff's recovery.
- "The use of discovery in litigation allows each party to obtain valuable information from the other party." For example, when the lawsuit is filed, the other party may uncover crucial data about a company, its products, and its financial status. Many companies may find this to be invasive because such information, obtained in the legal process, is then a matter of public record.
- "The rule of law generally governs the dispute; if the law is on one party's side, the case is more likely to be decided in that party's favor." For example, a major league baseball player who is under contract with a specific team cannot arbitrarily elect to play for another team on his own, without being traded or his rights being sold to the other team. He is bound to the team like cattle unless traded or otherwise released by the team.
- "Only courts can establish precedent. If a party has concern about future cases as well as the present controversy, litigation may establish the needed precedent." For example, if the language in a contract is unclear and the parties in dispute need formal clarification to direct their future conduct, the use of ADR is probably not the best vehicle for achieving the desired outcome.
- "Litigation is generally preferred if the case involves new or complex legal theories." For example, if the case involves an intellectual property issue related to CD-ROM technology, and there is no case law to provide guidance on how the settlement should be explored, this matter would be a likely candidate for establishing a legal precedent.
- "Litigation is more public and thus may be used to let other parties know that disputes will not be settled for their nuisance value." For example, when a lawsuit is initiated, it becomes a matter of public record by law. Any interested party may therefore appear at the hearings, acquire at cost a copy of all formal pleadings and motions, and actually observe most of the maneuvering of the parties toward resolution of the dispute.

Consequently, litigation waives privacy. A party having to present its story, which is deemed to be meritorious, is less likely to settle, even for a considerable sum of money.

**What Are The ADR Options?** There are eight common ways in which to use ADR. Each will be discussed in turn.

1. Negotiation is a process by which the disputants discuss their differences and move toward a settlement that is acceptable to all parties. It is the least costly resolution technique because the parties themselves control the process and voluntarily reach a solution. Negotiation may occur at any time—before litigation is instituted and if formal litigation is undertaken, even after a judgment has been rendered in court. There are two principal strategies to obtain the desired outcome: "competitive" and "collaborative." In competitive negotiation, one party seeks to maximize its own gain, generally at the expense of the other. In the final outcome, there is usually a winner and a loser. In collaborative negotiation, the approach is oriented toward mutually equitable problem solving with the outcome expected to be "win-win." This type of negotiation customarily features using the creativity of the parties and exploring each one's responsiveness to compromise.
2. Conciliation is a variation of negotiation in which a third party is used to bring the disputants together. Although the communication pattern may at times resemble negotiations, the conciliator does not take an active role in the negotiations. Rather, the role of the conciliator is helping the parties limit and control their passions and negative rhetoric. Conciliation is a constructive and facilitated form of negotiation. For example, even though the parties themselves decide on the nature of the resolution of the dispute, the conciliator helps them stay focused and not digress into collateral, unrelated issues.
3. Mediation is a structured and voluntary problem-solving process. An impartial third party is engaged by the disputants to assist them in directly negotiating their own solution to the decision or to solve the problem for them. The role of this mediator is to facilitate discussion, solicit honest evaluation of the dispute, and foster an atmosphere conducive for equitable settlement. Mediation is often referred to as "facilitated negotiation." It is a forward-looking process in which the mediator attempts to help the parties focus on the future, not the past—essential in resolving disputes. The key to the success of mediation is the ability of the mediator to engender trust so that the parties will confide in him. The most sensitive and successful form of ADR in terms of engendering settlements among disputants, mediation has a lengthy history. The early Roman Catholic church used mediation processes for years in its tax collection disputes.
4. Arbitration is the best known and most formalized alternative to a formal court trial. It is a process whereby the parties submit their dispute to a neutral third person for final disposition who is usually an expert in the area of dispute. Arbitrators are chosen by the disputing parties on the basis of their expertise and past record of opinions. Their decisions, known as "awards," are routinely binding on the parties, unless the latter previously agreed to non-binding arbitration. The features of this process are very much like court deliberations. Usually the parties are represented by legal counsel or some other individual who possesses expertise in this area. There are five basic steps followed in the process of arbitrating a dispute: (1) selection of the arbitrator(s); (2) preparation for the hearing; (3) the hearing; (4) the award; (5) the appeal. A matter is deemed appropriate for arbitration when the parties agree by virtue of a contractual relationship to have matters of dispute submitted to arbitration. On the basis of this agreement, one disputant may make a "demand for arbitration" in accordance with the provisions of the contract. If no contract exists, arbitration may still occur if by mutual agreement the parties sign a document known as a "submission to arbitration agreement."
5. Mediation/Arbitration is a two-step process designed to bring the benefits of both mediation and arbitration together in resolving a dispute. Traditionally, the two processes have been distinctive in application. However, this hybrid form of ADR was developed to promote finality in matters of dispute before the mediator/arbitrator was chosen. Arbitration is therefore deferred until mediation proves to be unsuccessful. If this occurs, the parties are notified of the mediator's decision to have the matter proceed to arbitration, and the arbitrator, upon hearing the presentation of both parties, renders the award. A dissatisfied party or parties may then appeal the matter to a full-scale court hearing. There is a winner and a loser when the latter phase of the process is used. Moreover, the parties only use this option when there is high respect for the mediator/arbitrator's skill, expertise, and reputation for fair play and integrity. The reasoning is that the mediator may become the arbitrator if the initial phase is not productive, and so must be capable of handling information from the initial phase without bias or predisposition when making the final determination. Mediation/arbitration is becoming popular in commercial and business disputes in which the parties are committed to resolving the dispute outside of court. It is also being used in an increasing number of court jurisdictions that require mediation of domestic relations cases. One important drawback is that confidentiality may be breached by the mediator, who subsequently becomes arbitrator after hearing confidential information from either or both parties. Trust and impartiality are the hallmark considerations in determining whether the neutral hearing officer can be fair and effective.
6. A mini-trial is a structured settlement process designed to bring the focus of disputing parties into a final decision generally made by a panel of senior corporate executives from the disputing organizations who are not personally involved with the dispute. After both parties briefly present their versions of the case to the panel, the executives caucus privately, usually with the help of a third neutral person, to negotiate a resolution. They then issue an advisory opinion regarding the merits of the case, which the disputants use as a basis for additional negotiations and settlement. Mini-trials are voluntary and non-binding. The parties have no obligation to settle through the senior executive officers. However, this technique has experienced a high degree of success in resolving high-profile commercial and business disputes, particularly when the relationship must be maintained after the dispute is resolved. For example, in a number of disputes involving large amounts of money and corporations of significant size and stature, people have opted to use this form of ADR to maintain privacy, control litigation costs, and avoid doing irreparable harm to their relationship.
7. Private judging is a process whereby the disputants engage a neutral third party, such as an attorney, former judge, or non-lawyer expert, to perform as judge or referee. In the states where private judging is authorized (approximately half of them), the judge or referee has the full authority of a regular judge in a court of law, except for the power to find someone in contempt. The proceedings are identical to trial proceedings, and the rules of evidence are enforced. A record is maintained of the proceedings for the purpose of appeal, and the parties bear the associated costs. A major advantage of private judging is that the case is not subject to the regular court calendar. Consequently, a case can receive more expeditious treatment. On the negative side, this ADR option is very expensive, and generally only wealthier parties are able to afford to use it.

8. In a Summary Jury Trial (SJT), lawyers for the respective parties present a brief synopsis of their case to a jury that, after deliberations, makes a non-binding, advisory decision. It is a court-supervised proceeding whose purpose is to provide the parties with a "simulated verdict" and a sense of how a typical jury might rule on the matter under dispute. The advisory verdict rendered by the jury is often sufficiently powerful to break any deadlock in negotiations between the parties and bring about a settlement. The SJT usually lasts about four hours, and there is no examination of the members of the jury as to their suitability for service. The attorneys are usually given one hour to present their case, with limitations on the amount of evidence each party may present. Witnesses are usually excluded from SJT proceedings and the verdict of the jury is consensus rather than unanimous. A party who is dissatisfied with the verdict may reject it and proceed to a normal trial.

**Is ADR Binding On The Participants?** As Yogi Berra, the Hall of Famer and former New York Yankee catcher, said, "It ain't over 'til it's over." In most circumstances, the enforceability of ADR agreements is binding without question. This is largely because the legislative and judicial branches of government welcome contracts with ADR provisions because the parties have the potential to solve their own problems without unnecessarily burdening the courts.

ADR has two forms by which parties seek to resolve the dispute: binding and non-binding. In most instances, negotiation, conciliation, and mediation are non-binding unless the parties enter into some kind of binding agreement before commencing the process. The usual strategy associated with these options is for the parties to reach an agreement and thereafter enter into a binding contractual arrangement by cementing their agreement in writing. On the other hand, arbitration, mini-trials, and private judging are far more formal, and the parties may provide for a binding agreement before initiating ADR. Then, if a written agreement is instituted at the time of settlement, the parties are usually precluded from additional adjudication of the matter, unless the agreement is obtained by fraud or if some other technical or legal deficiency exists.

In a number of instances, when binding written agreements have been challenged or there is a failure of one or both parties to abide by that agreement, courts have generally enforced such agreements. The exception, again, is when some legal deficiency would compel a reversal of the award or abrogation of the agreement. When Should ADR Be Used?

ADR should be the settlement method of choice for any or all of the following reasons:

- to avoid the zero-sum game, in which one party wins and the other party loses;
- when lawsuits have the potential to shatter business relationships that, by contract, cover a significant length of time;
- when a court resolution will only resolve the legal issues and not the underlying causes;
- when formal litigation will be severely disruptive to the business and is apt to absorb a large amount of administrative time and concentration;
- when parties want a simpler, less structured way of resolving their disputes;
- when both parties need a genuine and sincere interest in resolving the dispute;
- when both parties have a historic and/or ongoing relationship and the preservation of that relationship would be mutually beneficial;
- when the cost of litigation is either prohibitive or will exceed the amount of damages involved in the controversy;
- if the matter needs to be resolved quickly;
- if there is no need to establish a precedent regarding the matter;
- in the face of a compelling need for both parties to keep the dispute private and confidential; and
- when fairness and justice will likely be best obtained by using this option.

**What Role Should Legal Counsel Play?** Legal counsel is important in ADR cases. Attorneys often convince their clients to use ADR, are active in drafting agreements for its use, often craft the ground rules, and may play a vital role in writing the final settlement agreement.

The use of legal counsel and the extent of its involvement vary, depending on the ADR option employed. In negotiation and mediation, where the parties themselves are very active and dominate the process, the use of legal counsel is limited and legal fees are minimal. When the more formal, quasi-judicial ADR options are used, such as mini-trial, private judging, and arbitration, the role of legal counsel is dramatically expanded and legal fees usually reflect the scope of this involvement.

Because the primary focus of ADR is getting the parties involved enough in the process to resolve their dispute personally, the use of legal counsel should be secondary to the overall objective. Accordingly, it should be viewed as a "support resource" to provide expertise as needed. Any other strategy for using legal counsel other than direct advocacy in private judging or arbitration is counter to the ultimate value of ADR.

**Who Are The Professional ADR Service Providers And Organizations?**

The rapid growth in service providers is comparable to the expanded use of ADR in our society. The more prominent providers are:

- the American Arbitration Association, with headquarters in New York City;
- ADR, Inc., based in Boston;
- Arbitration Forums, Inc. of New York City;
- JAMS/Endispute, Inc. of Cambridge, Massachusetts;
- Judicate, with headquarters in Lake Success, New York; and
- United States Arbitration and Mediation, Inc., based in Seattle.

The services provided by these organizations cover the entire range of ADR options. The fee for any case currently ranges from \$300 to \$2,000 per day, which is substantially less than the cost of litigating a case in court.

Other service providers are associated with universities, where dispute resolution centers have been established throughout the country. The most notable and reputed centers are located at Harvard University, Cambridge, Massachusetts; Pepperdine University, Malibu, California; and Capital University of Columbus, Ohio. They provide a broad range of services, including court-annexed and community service programs.

School systems in many major cities have established ADR programs using "peer-involvement" processes to settle disputes between students as well as between students, teachers, and administrative personnel. The character of these disputes is broad in scope and often encompasses cross-cultural and ethnic considerations.

Benjamin Franklin once said, "There never was a good war, or a bad peace." Most disputes arise between individuals, institutions, or businesses whose actions are not intended to defraud or injure but nevertheless result in parties feeling defrauded or injured. For example, an automobile accident or a securities purchase conflict may give rise to a contractual dispute. In these cases, ADR may be a more pleasant and expeditious way of resolving the dispute, if a provision is included in the contract making the use of ADR mandatory.

A number of individuals and organizations have been reluctant to use ADR, perhaps because of their lack of understanding about its efficiency and effectiveness. Moreover, there tends to be an abiding fear that if they opt to use ADR they have forsaken their opportunity and right to litigate the matter. However, many forms of ADR do allow for litigation, as previously stated, if the options are kept open by the ADR provision incorporated into the contract. Alternative Dispute Resolution is a superlative way to resolve conflict, maintain options for formal litigation, and use resources efficiently. The wisdom of Solomon may have died with Solomon. Yet his fairness, objectivity, and pragmatism are goals that disputants can still experience today. Litigation is one way to achieve these goals. But ADR presents other alternatives that are potentially far less costly and ultimately more satisfactory.

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#### Questions

1. Discuss some of the reasons why it is probably best to seek an out-of-court settlement in international commercial legal disputes rather than to sue.
2. Why is conciliation a better way to resolve a commercial dispute than arbitration.
3. Differentiate between conciliation and arbitration.
4. Assume you are a vice president in charge of a new business to business e-commerce division of a well known major international auto parts manufacturer. A dispute have aroused with a distributor in South America, draw a plan to solve the situation and prepare it to discuss it in class.
5. What is the meaning of reaching a binding or non-binding agreement? Explain when to seek one or another.
6. Find out what arbitration/mediation options may have a Company in an international context?

# WORKSHOP PRACTICE

Licenciatura en Administración de Empresas  
AD-413 International Marketing  
Formation Area: Marketing

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<b>Case 4</b>	<b>The infant formula incident</b>
<b>Place:</b>	Classroom
<b>Length:</b>	2 hours
<b>Lecturer:</b>	
<b>Objective:</b>	Companies that produce products for human use have to face not only cultural and legal situations but market implications of an improper understanding or usage of them. This case will help to make you more sensible to the effects of an International Operation, and understand the significance of each theme discusses so far within the course.

Activities during workshop:

1. Review the main lessons learned at this part of the course.
  - 1.1. Bases for Legal Systems
    - 1.1.1. Common and Code Law
    - 1.1.2. Islamic Law
    - 1.1.3. Marxist-Socialist Tenets
  - 1.2. Jurisdiction in International Legal Disputes
  - 1.3. International Dispute Resolution
    - 1.3.1. Conciliation
    - 1.3.2. Arbitration
    - 1.3.3. Litigation
  - 1.4. Protection of Intellectual Property Rights
    - 1.4.1. Inadequate Protection
    - 1.4.2. Prior Use versus Registration
    - 1.4.3. International Conventions
  - 1.5. Commercial Law within Countries
    - 1.5.1. Marketing Laws
    - 1.5.2. Green Marketing Legislation
    - 1.5.3. Antitrust
2. Practice procedure
  - 2.1. Prior class you have to read the article and answer the questions.
  - 2.2. Prepare your written report solicited in questions section.
  - 2.3. Group discussion to find consensus answer.

## Nestlé: The Infant Formula Incident

Nestlé Alimentana of Vevey, Switzerland, one of the world's largest food-processing companies with worldwide sales of over \$8 billion, has been the subject of an international boycott. For over 20 years, beginning with a Pan American Health Organization allegation, Nestlé has been directly or indirectly charged with involvement in the death of Third World infants. The charges revolve around the sale of infant feeding formula, which allegedly is the cause for mass deaths of babies in the Third World.

In 1974 a British journalist published a report that suggested that powdered-formula manufacturers contributed to the death of Third World infants by hard-selling their products to people incapable of using them properly. The 28 page report accused the industry of encouraging mothers to give up breast feeding and use powdered milk formulas. The report was later published by the Third World Working Group, a lobby in support of less-developed countries. The pamphlet was entitled "Nestlé Kills Babies" and accused Nestlé of unethical and immoral behavior.

Although there are several companies that market infant baby formula internationally, Nestlé received most of the attention. This incident raises several issues important to all multinational companies. Before addressing these issues, let's look more closely at the charges by the Infant Formula Action Coalition and other and the defense by Nestlé.

**The Charges** - Most of charges against infant formulas focus on the issue of whether advertising and marketing of such products have discouraged breast feeding among Third World mothers and have led to misuse of the products, thus contributing to infant malnutrition and death. Following are some of the charges made:

- A Peruvian nurse reported that formula had found its way to Amazon tribes deep in the jungles of northern Peru. There, where the only water comes from a highly contaminated river –which also serves as the local laundry and toilet formula-fed babies came down with recurring attacks of diarrhea and vomiting.
- Throughout the Third World, many parents dilute the formula to stretch their supply. Some even believe the bottle itself has nutrient qualities and merely fill it with water. The result is extreme malnutrition.
- One doctor reported that in a rural area, one newborn male weighed 7 pounds. At four months of age, he weighed 5 pounds. His sister, aged 18 months, weighed 12 pounds, what one would expect a four-month-old baby to weigh. She later weighed only 8 pounds. The children had never been breast fed, and since birth their diets were basically bottle feeding. For a four-month baby, one can of formula should have lasted just under three days. The mother said that one can lasted two weeks to feed both children.
- In rural Mexico, the Philippines, Central America, and the whole of Africa, there has been a dramatic decrease in the incidence of breast feeding. Critics blame the decline largely on the intensive advertising and promotion of infant formula. Clever radio jingles extol the wonders of the "white man's powder that will make baby grow and glow". "Milk nurses" visit nursing mothers in hospitals and their homes and provide samples of formula. These activities encourage mothers to give up breast feeding and resort to bottle feeding because it is "the fashionable thing to do or because people are putting it to them that this is the thing to do".

**The Defense** – The following points are made in defense of the marketing of baby formula in Third World countries:

- First, Nestlé argues that the company has never advocated bottle feeding instead of breast feeding. All its products carry a statement that breast feeding is best. The company states that it "believes that breast milk is the best food for infants and encourages breast feeding around the world as it has done for decades." The company offers as support of this statement one of Nestlé's oldest educational booklets on "Infant Feeding Hygiene", which date from 1913 and encourages breast feeding.
- However the company does believe that infant formula has a vital role in proper infant nutrition as a supplement, when the infant needs nutritionally adequate and appropriate foods in addition to breast milk, and as a substitute for breast milk when a mother cannot or chooses not to breast feed. One doctor reports, "Economically deprived and thus dietary deprived mothers who give their children only breast milk are raising infant whose growth rates begin to slow noticeably at about the age of three months. These mothers then turn to supplemental feedings that are of the harmful to children. These include herbal teas and concoctions of rice water or corn water and sweetened, condensed milk. These feedings can also be prepared with contaminated water and are served in unsanitary conditions".
- Mothers in developing nations often have dietary deficiencies. In the Philippines, a mother in a poor family who is nursing a child produces about a pint of milk daily. Mothers in the United States usually produce about a quart of milk each day. For both the Filipino and US mothers, the milk produced is equally nutritious. The problem is that there is less of it for the Filipino baby. If the Filipino mother doesn't augment the child's diet, malnutrition develops.
- Many poor women in the Third World bottle feed because their work schedules in fields or factories will not permit breast feeding. The infant feeding controversy has largely to do with the gradual introduction of weaning foods during the period between three months and two years. The average well-nourished Western woman, weighing 20 to 30 pounds more than most women in less-developed countries, cannot feed only breast milk beyond five or six months. The claim that Third World women can breast feed exclusively for one or two years and have healthy, well-developed children is outrageous. Thus, all children beyond the ages of five to six months require supplemental feeding.
- Weaning foods can be classified as either native cereal gruels of millet or rice, or commercial manufactured milk formula. Traditional native weaning foods are usually made by mixing maize, rice, or millet flours with water and then cooking the mixture. Other weaning foods found in use are crushed crackers, sugar and water, and mashed bananas. There are two basic dangers to the use of native weaning foods. First, the nutritional quality of the native gruels is low. Second, microbiological contamination of the traditional weaning foods is a certainty in many Third World settings. The millet or the flour is likely to be contaminated, the water used in cooking will most certainly be contaminated; therefore, the native gruel, even after it is cooked, is frequently contaminated with colon bacilli, staph, and other dangerous bacteria. Moreover, large batches of gruel are often made and allowed to sit, inviting further contamination.
- Scientist recently compared the microbiological contamination of a local native gruel with ordinary reconstituted milk formula prepared under primitive conditions. They found both were contaminated to similar dangerous levels.
- The real nutrition problem in the Third World is not whether to give infants breast milk or formula, but how to supplement mothers' milk with nutritionally adequate foods when they are needed. Finding adequate locally produced, nutritionally sound supplements to mothers' milk and teaching people how to prepare and use them safely are the issues. Only effective nutrition education along with improved sanitation and good food that people can afford will win the fight against dietary deficiencies in the Third World.

**The Resolution** – In 1974, Nestlé, aware of changing social patterns in the developing world and the increased access to radio and television there, reviewed its marketing practices on a region-by-region basis. As a result, mass media advertising of infant formula began to be phased out immediately in certain markets and, by 1978, was banned worldwide by the company. Nestlé undertook to carry out more comprehensive health education programs to ensure that an understanding of proper use of their products reached mothers, particularly in rural areas.

“Nestlé fully supports the WHO (World Health Organization) Code. Nestlé will continue to promote breast feeding and ensure that its marketing practices do not discourage breast feeding anywhere. Our company intends to maintain a constructive dialogue with governments and health professionals in all the countries it serves with the sole purpose of servicing mothers and the health of babies”. This quote is from Nestlé Discusses the Recommended WHO Infant Formula Code.

In 1977, the Interfaith Center on Corporate Responsibility in New York compiled a case against formula feeding in developing nations, and the Third World Institute launched a boycott against many Nestlé products. Its aim was to halt promotion of infant formulas in the Third World. The Infant Formula Action Coalition (INFACT, successor to the Third World Institute), along with several other world organizations, successfully lobbied the World Health Organization to draft a code to regulate the advertising and marketing of infant formula in the Third World. In 1981, by a vote of 114 to 1 (Three countries abstained and the United States was the only dissenting vote), 118 member nations of WHO endorsed a voluntary code. The eight-page code urged a worldwide ban on promotion and advertising of baby formula and called for a halt to distribution of free product samples or gifts to physicians who promoted the use of the formula as substitute for breast milk.

In May 1981 Nestlé announced it would support the code and waited for individual countries to pass national codes that would then be put into effect. Unfortunately, very few such codes were forthcoming. By the end of 1983, only 25 of 157 member nations of the WHO has established national codes. Accordingly, Nestlé management determined it would have to apply the code in the absence of national legislation, and in February 1982 is issued instructions to marketing personnel that delineated the company's best understanding of the code and what would have to be done to follow it.

In addition, in May 1982 Nestlé formed the Nestlé Infant Formula Audit Commission (NIFAC), chaired by former Senator Edmund J. Muskie, and asked the commission to review the company's instructions to field personnel to determine if they could be improved to better implement the code. At the same time, Nestlé continued its meetings with WHO and UNICEF (United Nations Children's Fund) to try to obtain the most accurate interpretation of the code. NIFAC recommended several clarifications for the instructions that it believed would better interpret ambiguous areas of the code; in October 1982, Nestlé accepted those recommendations and issued revised instructions to field personnel.

Other issues within the code, such as the question of a warning statement, were still open to debate. Nestlé consulted extensively with WHO before issuing its label warning statement in October 1983, but there was still not universal agreement with it. Acting on WHO recommendations, Nestlé consulted with firms experienced and expert in developing and field testing educational materials, so that it could ensure that those materials met the code.

When the international Nestlé Boycott Committee (INBC) listed its four points of difference with Nestlé, it again became a matter of interpretation of the requirements of the code. Here, meetings held by UNICEF proved invaluable, in that UNICEF agreed to define areas of differing interpretation – in some cases providing definitions contrary to both Nestlé and INBC's interpretations. It was the meetings with UNICEF in early 1984 that finally led to a joint statement by Nestlé and INBC on January 25. At that time, INBC announced its suspension of boycott activities, and Nestlé pledged its continued support of the WHO code.

**Nestlé Policies** – In the early 1970s Nestlé began to review its infant formula marketing practices on a region-by-region basis. By 1978 the company had stopped all consumer advertising and direct sampling to mothers. Instructions to the field issued in 1982 and clarified in the revised instructions of October 1982 to adopt articles of the WHO code as Nestlé policy include the following:

- No advertising to the general public
- No sampling to mothers
- No mothercraft workers
- No use of commission/bonus for sales
- No use of infant pictures on labels
- No point-of-sale advertising
- No financial or material inducements to promote products
- No samples to physicians except in three specific situations: a new product, a new product formulation, or a new graduate physician; limited to one or two cans of product.
- Limitation of supplies to those requested in writing and fulfilling genuine needs for breast milk substitute
- A statement of the superiority of breast feeding in all labels/materials
- Labels and educational materials clearly stating the hazards involved in incorrect usage of infant formula, developed in consultation with WHO/UNICEF

Even though Nestlé stopped consumer advertising, it was able to maintain its share of the Third World infant formula market. In 1988, a call to resume the seven-year boycott was made by a group of consumer activist members of the Action for Corporate Accountability. The group claimed that Nestlé was distributing free formula through maternity wards as a promotional tactic that undermined the practice of breast feeding. The group claimed that Nestlé and others, including American Home Products, have continued to dump formula in hospitals and maternity wards and that, as a result, “babies are dying as the companies are violating the WHO resolution”. As late as 1997, the Interagency Group on Breastfeeding Monitoring (IGBM) claimed Nestlé continues to systematically violate the WHO code. Nestlé response to these accusations is included on their website (see [www.nestle.com](http://www.nestle.com) for details).

The boycott focus is Taster's Choice Instant Coffee, Coffeemate Nondairy Coffee Creamer, Anacin aspirin, and advil.

Representatives of Nestlé and American Home Products rejected the accusations and said they were complying with WHO and individual national codes on the subject.

**The new twist** – A new environmental factors has made the entire case more complex. As of 2001 it was believed that some 3.8 million children around the world have contracted the human immunodeficiency virus (HIV) at their mother's breast. In affluent countries mothers can be told to bottle feed their children. However, 90 percent of the child infections occur in developing countries. There the problems of bottle feeding remain. Further, in even the most infected areas, 70 percent of the mothers do not carry the virus, and breast feeding is by far the best option. The vast majority of pregnant women in developing countries have no idea whether they are infected or not. One concern is that large number of healthy women will switch to the bottle just to be safe. Alternatively, if bottle feeding becomes a badge of HIV infection, mothers may continue breast feeding just to avoid being stigmatized. In Thailand, pregnant women are offered testing, and if found HIV positive, are given free milk powder. But in some African countries, where women get pregnant at three times the Thai rate and HIV infection rates are 25 percent compared with the 2 percent in Thailand, that solution is much less feasible.

**The issues** – Many issues are raised by this incident and the ongoing swirl of cultural change. One of them concerns their responsibility of MNC marketing in developing nations. Setting aside the issues for a moment, consider the notion that, whether intentional or not, Nestlé's marketing activities have had an impact on the behavior of many people. In other words, Nestlé is a cultural change agent. When it or any other company successfully introduces new ideas into culture, the culture changes and those changes can be functional or dysfunctional to established patterns of behavior.

### **Questions**

1. What responsibility does the MNC have to the culture when, as a result of its marketing activities, it causes change in that culture?
2. How might Nestlé now participate in the battle against the spread of HIV and AIDS in developing countries?
3. What could Nestlé have done to have avoided the accusations of "killing Third World babies" and still market its product?
4. After Nestlé experience, how do you suggest it, or any other company, can protect itself in the future?
5. Assume you are the one who had to make the final decision on whether or not to promote and market Nestlé's baby formula in Third World countries. Where the decisions socially responsible? Were they ethical?
6. What legal strategy could have used, if there is one, Nestlé to avoid the boycott?
7. Prepare and bring to class a diagnose of current formula marketing strategies and compare it with those described within this article. You may bring to class labels or advertisement to quote current activities.

# WORKSHOP PRACTICE

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Formation Area: Marketing

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**Case 5**                      **Welcome to the frying pan, Jeff**  
**Place:**                      Classroom  
**Length:**                      2 hours  
**Lecturer:**  
**Objective:**

An issue facing many multinationals today is how to compete in an increasingly competitive global market. Whether a small company or one of the giants, staying competitive means constantly re accessing marketing strategies. How product, promotion, distribution, and pricing strategies evolve in international marketing is dependent on the approach to internationalization the company takes. Of the three operating concepts that characterize a company's international orientation, Domestic Market Extension Concept, Multidomestic Market Concept, or Global Market Concept, the main focus of this chapter and the text is on the Global Market Concept. Regardless of the size of a company or in how many countries it operates, it should have a global orientation.

Activities during workshop:

1. Review and emphasize the global management significance
  - 1.1. Present the operating concepts an international company may have and explore the idea of global marketing management.
  - 1.2. Discuss the benefits of global orientation.
  - 1.3. Stress the importance of quality and cost containment in global marketing competition.
  - 1.4. Examine the different types of collaborative relationships and show how these alliances are being embraced by international companies.
  - 1.5. Focus on relationship marketing and strategic international alliances as two important types of collaborative relationships for the global marketer.
  - 1.6. Stress the need for strategic planning to achieve company goals.
2. Practice procedure
  - 2.1. Prior class you have to read the article and answer the questions.
  - 2.2. Prepare your written report solicited in questions section.
  - 2.3. Group discussion to find consensus answer.

WELCOME TO THE FRYING PAN, JEFF  
(General Electric CEO Jeffrey Immelt faces falling stock prices)

Tuesday, Sept. 11, was Jeffrey R. Immelt's third day as chairman and CEO of General Electric Co. Early that morning, before a planned address to Boeing Co. engineers in Seattle, he was working out at his hotel when the TV over his StairMaster flashed the news about the World Trade Center attacks. Within minutes, Immelt was on the phone to GE headquarters in Fairfield, Conn., checking on employees (two died in the attacks) and dispatching GE's mobile generators and medical diagnostic equipment to the disaster scene. The next day, he made a \$10 million company donation to the families of rescue workers lost in the buildings' collapse.

When the stock market reopened six days later, however, it was clear that the 45-year-old CEO was faced with yet another challenge: restoring GE's battered stock price. By week's end, investors had lopped more than 20% off GE shares, while the Dow Jones industrial index had slid only 14.3%. That took about \$80 billion off GE's market cap and put the share price of the world's most valuable company at a level not seen since 1998.

Immelt already had the tough task of convincing the world that he was a worthy successor to the iconic Jack Welch. Now he also has to lead GE through dark and unpredictable times. Not only are customers and employees traumatized by the attacks, but many GE businesses—including jet engines, aircraft leasing, broadcasting, and reinsurance—will feel the pain. The company's Employers Reinsurance unit, for example, which provided coverage for some of the hijacked jets, already expects a \$600 million pretax loss this year, while NBC is expected to take a \$50 million hit to profits because of several days of ad-free coverage of the attacks.

Yet on Sept. 21, Immelt appeared before a group of investors and analysts in Manhattan with surprisingly good news. He promised that profits would grow by 11% this year and that he would deliver double-digit growth in 2002, compared with the usual 15% rate. That means earnings of \$1.41 per share in 2001, or only 4 cents less than GE expected before the attacks—2 cents from insurance losses and a cent each from shrinking sales at aircraft engines and various economically sensitive businesses.

How would he do it? Immelt says strong growth in the company's power-systems, medical-systems, and capital-services units will compensate for weaker siblings. Mix those hot performers with an expected \$400 million boost in military sales and the company's continual cost-cutting, he argued, and GE will do well. Even NBC is expected to get a \$600 million revenue boost from the Salt Lake City Olympics next year. As Immelt puts it: "All of our business plans were based on there being an economic slowdown through 2002."

**JAPANESE EXPOSURE.** Nevertheless, it won't be quite that easy. GE probably can count on top-notch performances from its strongest units, Power Systems and Medical Systems, which should easily increase earnings next year, by more than 20%, thanks to strong orders and new products. Together, they should account for about a third of GE's operating income. But GE Capital Services, the company's finance arm that contributes about 40% of income, is another matter. Robert Friedman, an analyst at Standard & Poor's Corp. (a sister company of BusinessWeek) is skeptical that the unit can deliver the promised 20% earnings growth. Not only does GE face tough times in its aircraft leasing unit and the overall economy, it has to cope with Japan's poor economy, where it has consumer and business-finance activities. Immelt counters that there are bright spots. Lower interest rates should aid financing activities, while lower equity prices may fuel more acquisitions for GE Capital. But he can't let that unit get so big it reshapes GE's image as a well-diversified company.

So far, investors seem to agree with Immelt's optimistic outlook. GE stock rose 3% on Sept. 21, despite another down day for the market, and jumped more than 13% to close at \$35.50 on Sept. 25. It helped that the new chief gave a more detailed analysis of the numbers than Welch normally did. GE's sheer breadth of business is a buffer against bad times. In total, the attacks were projected to trim only several hundred million dollars off the bottom line of a company that racked up \$130 billion in sales and \$12.7 billion in profits last year. And GE's costs were already shrinking. Ongoing efforts in all its divisions to put more operations online should save about \$1.5 billion annually, it says. Meanwhile, GE has already trimmed about 30,000 workers from its payroll this year. But even if Immelt keeps the company strong in a sour economy, GE's share price may have a hard time keeping up. Before the attacks, it already was down one-third from its 52-week high because of a slumping economy and skittishness about a GE without Welch. Also, the Sept. 11 attacks showed up the nature of GE stock: Its 10 billion shares are liquid, widely held, and easy to dump. Many shareholders—including insurers paying out claims and mutual funds covering redemptions—did just that.

**"UNPRONE TO GOOFING."** Even many of those who held on to their shares are not betting on a rapid rise anytime soon. "We're all trying to figure out what kind of risk premium GE should sell for," says Robert L. Meyer, president of investment firm Ehrlich Meyer Associates Inc. "In this market, I don't think we'll see the kinds of multiples it used to get." Immelt can joke about that, saying that he still regards GE as a growth stock, "though you may need glasses to see that today." On Sept. 18, Immelt bought 25,000 GE shares at \$35.11 each. And Chief Financial Officer Keith S. Sherin says that GE's recently accelerated \$3 billion-a-year stock-buyback program made him empathize with Japan's efforts to prop up the yen.

Immelt's confidence, nevertheless, pleased most investors, as did his openness and details about the problems ahead. As Immelt explains: "When there is a lot of uncertainty, it's important to bring people back to what's actually going on." That's already a break with the Welch regime where, some say, you were scared to blink in case you missed a chart. This time, everyone got a bound copy of statistics and growth projections. One investor even mentioned it, prompting some applause. "I expected a vague 'rah-rah, GE,' touchy-feely kind of thing," says James G. Bitter, vice-president of asset management at Wilmington Trust Co. "I think Jeff today will be as unprone to goofing up as Welch was after 20 years."

Immelt already is putting his own twist on the top job. Gone is the intimidating bluster that characterized the Welch regime—though the top brass is still tight-lipped about such sensitive issues as future layoffs. Immelt wouldn't estimate any layoffs attributable to the attacks, although he did say the aircraft-engine unit would save \$500 million through layoffs and other cost cuts. In his Sept. 21 meeting, Immelt paced across the stage like a coach outlining moves before a big game, calling out to several audience members by name. Immelt spoke of the uncertainty ahead. But he also spoke of GE's ability to win. "Probably the only good thing about the last few weeks," he says, "is that I don't get asked about Jack anymore."

There are surely tough times ahead for GE in the next two years. Immelt seems to have convinced investors that GE will survive the recent events, although he admits he was shaken. "Not much scared me before Tuesday [Sept. 11]," he says. When it comes to GE, at least, he's not afraid of the future.

HOW GE MAY GET HURT...	...AND WHAT IT MUST DO
<p><b>INSURANCE</b>            GE provided some of the coverage for the World Trade Center and the jets lost in the attack. It expects \$600 million in pretax losses.</p>	<p><b>GE CAPITAL</b>            Achieve strong growth in acquisition and financing activities to meet forecast.</p>
<p><b>AIRCRAFT LEASING</b>            Hard-hit airlines may miss payments or return planes. GE expects no hit to profits this year but \$120 million less in 2002.</p>	<p><b>AIRCRAFT ENGINES</b>            Cut jobs and other costs to save \$500 million. Boost military sales.</p>
<p><b>AIRCRAFT ENGINES</b>            Boeing pared expected deliveries through 2003 by 40%. That may cut \$100 million from operating profits now and \$200 million in 2002.</p>	<p><b>POWER SYSTEMS</b>            Hike earnings by more than 20%, already likely because of turbine and services backlog.</p>
<p><b>BROADCAST</b>            NBC, like other networks, ran several days of ad-free coverage. That is expected to sap \$50 million from earnings this year.</p>	<p><b>MEDICAL SYSTEMS</b>            Expand service business and launch new products to meet 20% earnings-growth goal.</p>

# WORKSHOP PRACTICE

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<b>Case 6</b>	<b>GeoChron, pricing for Multiple Country Markets</b>
<b>Place:</b>	Classroom
<b>Length:</b>	2 hours
<b>Lecturer:</b>	
<b>Objective:</b>	Basic pricing policy questions that arise from the special cost, market, and competitive factors in foreign markets are the focus of this workshop. The additional costs of international marketing that lead to price escalation and ways to minimize these costs and countertrades as a special pricing problem should all be stressed.

Activities during workshop:

3. Review and emphasize the global pricing strategy significance
  - 3.1. Review pricing policies as they are affected by the differences in international marketing and especially parallel imports.
  - 3.2. Explore fully the problem of price escalation and ways to lessen price escalation.
  - 3.3. Examine foreign trade zones as an important means of controlling and possibly lessening some of the costs associated with price escalation.
  - 3.4. Discuss countertrades as an important tool in international pricing and the importance of taking a proactive countertrade strategy.
4. Practice procedure
  - 4.1. Prior class you have to read the article and answer the questions.
  - 4.2. Prepare your written report solicited in questions section.
  - 4.3. Group discussion to find consensus answer.

## GeoChron, Pricing a Product in Multiple Country Markets

Company:	Geochron Enterprises Inc.
Headquarters:	Redwood City, California.
Business:	Designer and manufacturer of world time indicators
Years in Business:	35
Years in International Business:	15

Have you ever had the need to know what time it is in Japan but didn't know an easy, convenient way of finding out? Geochron Enterprises has just the thing: a "global time indicator". It's a wall-mounted clock that displays night and day, time zones, and the actual time for any country around the world. There's even an updated world map offered for sale every year to keep up with constantly changing borders and time zones. Geochron is now owned and run by Jim Kilburg, the son of the founder, and his partner, Robert Williamson. After purchasing the company, the two started supplying their products to distributors such as Rand McNally and The Nature Company and to foreign distributors with exclusive contracts. They soon discovered, however, that in different countries, tariffs and distributors affected the end price of their product in different ways.

Japan, for example, has high tariffs on items like the Geochron clock. In addition, the complicated and layered distribution system means that several middlemen must be paid out of profits. The markup is of the order of over 400 %, putting the price of a Geochron clock in Japan as high as USD \$3,800. And when the yen was sliding, the price went even higher. However, a Japanese tourist in Honolulu could find the exact product for USD \$1,300. This significant price difference does not go unnoticed. Geochron found it had the same problem in Europe, despite supposedly uniform tariffs. In fact, because consumers travel within Europe so often, the problem was even worse.

As with most exclusive distribution arrangements, in exchange for exclusive distribution rights, Geochron distributors must agree to purchase a minimum amount of products per year. If the quota is not met, Geochron puts the company on probation and eventually can allow other distributor to do business in the same territory.

Before Kilburg took steps to lessen consumer price differentials, distributors were unhappy that consumers "country shopped" for the Geochron clock. Although competition among distributors should theoretically boost sales, it played havoc with distributor being able to meet minimum required quantities and with their willingness to invest in marketing the product, which could then result in the territory's being abandoned altogether. Plus, because Kilburg's prices to distributors was uniform, he received nothing extra when the markup was high. For more information on the company and the product, visit [www.geochronusa.com](http://www.geochronusa.com)

Questions:

1. Identify the problems that confront Geochron and their customers in Marketing the world time indicator.
2. Recommend solutions to the problems identified.

# WORKSHOP PRACTICE

Licenciatura en Administración de Empresas  
AD-413 International Marketing  
Formation Area: Marketing

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**Case 7**                      **Global Advertising: The NFL Machine**  
**Place:**                      Classroom  
**Length:**                      2 hours  
**Lecturer:**  
**Objective:**

If there is any activity in marketing that is culture specific, it is advertising. After all, advertising is communications and to be understood and to communicate effectively you must express yourself in the cultural language of your audience. So, how can the idea of global advertising ever be anything other than standardize when feasible and adapt where culturally necessary. In any case, since this issue continues to be debated and because there is often confusion about global advertising, these topics need to be discussed. In most cases, actual practice is to standardize parts of the message and to localize other parts.

Activities during workshop:

5. Review and emphasize the global pricing advertising significance
  - 5.1. Present a complete coverage of the issue of global advertising covering specifically global advertising, world brands, pattern advertising and the relationship of global market segmentation an promotional strategy.
  - 5.2. Detail the creative challenges confronting the international advertiser.
  - 5.3. Review the communications process as a way of better understanding the diversity that exists in developing an international promotional program..
6. Practice procedure
  - 6.1. Prior class you have to read the article and answer the questions.
  - 6.2. Prepare your written report solicited in questions section.
  - 6.3. Group discussion to find consensus answer.

## The NFL Machine; Behind a thrilling season is a hard-nosed business run with military precision

(Paul Tagliabue, National Football League)(Company Profile)(Industry Overview) Tom Lowry

Byline: Tom Lowry

In this era of bad-boy businessmen and the corporate perp walk, it's hard to imagine any CEO commanding a police escort—unless he's cuffed in the backseat of a patrol car. Still, that's what is waiting for Paul Tagliabue as his private jet touches down in Tampa in early December. Why the rock-star treatment? Simple. From September to February, this bookish 62-year-old with the button-down look of a corporate lawyer controls the passion of America—the 32 teams of the NFL. Besides, he can get Super Bowl tickets.

There are hours to go before the Tampa Bay Buccaneers face the Atlanta Falcons, but Tagliabue hops into a black Lincoln Town Car buffered by two police cruisers. As sirens blare and lights flash, the commissioner's car is guided through pregame traffic directly into the caverns beneath Raymond James Stadium. Fans treat him like a celebrity, too. "Hey commish, over here," shouts one Warren Sapp wannabe in a bright-red No. 99 jersey as he snaps a photo. The 6-foot, 5-inch Tagliabue signs autographs and chats with security guards before strolling out onto the lush field to watch warm-ups. He quickly notes that the socks of Falcons star quarterback Michael Vick are scrunched down around his ankles in violation of league rules. They are pulled up tightly by kickoff time.

Sometimes a quarterback finds himself in a sweet spot where everything works just right, week after week. Tagliabue in 2002, and now heading into the Super Bowl on Jan. 26 in San Diego, is in that kind of groove. Behind him is a thrilling, anyone-can-win season and a white-knuckle postseason. Ahead is a media empire in the making. The National Football League recently signed a \$2 billion satellite-TV deal. There are three years left on an \$18 billion network and cable contract. Twenty spanking-new football-only stadiums have been built or renovated in the past 10 years, thanks to the league's deft use of the bond market. Sponsors keep queuing up to get a piece of the NFL brand. Harmony reigns among players and owners. And heck, as John Madden might say, this is in the middle of an economic slump.

Maybe one reason for Tagliabue's championship season in the face of a stubborn downturn is that the NFL is not exactly a model of capitalism. The commissioner has made it his mission to distribute equally as much of the league's revenues as possible among the teams of the National Football Conference and the American Football Conference. "We're 32 fat-cat Republicans who vote socialist," Baltimore Ravens owner Art Modell quipped recently. It doesn't hurt that players have agreed to a hard cap on salaries and few guarantees (page 91). "I don't see this as us vs. the owners, but instead it's us vs. all the other entertainment choices out there: the movies, music, theater," says Gene Upshaw, the former Oakland Raider and Hall of Famer who represents 2,000 players as executive director of the NFL Players Assn.

To understand the success of the business that Tagliabue has built and runs with almost military precision, take a look at the season just past. It started in early September, when the commish and his marketing team were able to persuade New York City to shut down Times Square during rush hour on a workday for a kickoff concert featuring Jersey rockers Bon Jovi. Half a million people turned out.

By the final regular-season weekend at the end of December, 19 teams still had a shot at the playoffs and a record 24 games had been decided in overtime. Those photo finishes helped boost TV viewership by 5% over 2001, inching closer to the NFL's recent peak in 1999. An average of 15.8 million viewers this season tuned in to any one game on the networks, according to Nielsen Media Research. For a league that loves to boast about competitive balance, it couldn't have been a more satisfying finale. "They wanted parity. They sure got parity," says Richard A. Bilotti, a media analyst at Morgan Stanley.

Life looks like a cakewalk for the 83-year-old NFL these days, but it's not as if the league hasn't had its issues. Grumbling that the game had gone flat led to the birth in 2001 of the testosterone-infused XFL—a smash-mouth spectacle featuring cheerleaders dressed like showgirls. But this production of World Wrestling Entertainment and NBC proved too staged, too self-parodying, and maybe even too violent to turn the curious into fans.

Not that violence isn't a good part of the NFL's appeal on-field—and a problem for the league off-field. The controversial 1998 book *Pros and Cons: The Criminals Who Play in the NFL* cited research showing that one in five players during the 1996-97 season had been charged with a serious crime at one time. "These guys are the gladiators of modern culture," says sports media consultant Neal Pilson. "And with that come pluses and minuses associated with players who are larger than life." It doesn't help that a string of crummy calls by refs in recent games have fans, owners, coaches, and players riled up. But most of the focus has been where it should be: between the chalk lines.

Beyond the compelling action on the turf, the NFL, already widely considered the most successful and opportunistic of the pro leagues, has struck half a dozen or so blockbuster business deals in the past year. The moves, from the new \$2 billion, exclusive satellite television deal with DirecTV (triple the value of the previous pact) to a \$300 million sponsorship by Coors, underscore how pro football has been able to leverage its mass following to double revenues in five years, to \$4.8 billion in 2002. By comparison, the valuable cable networks at media giant Viacom, such as MTV and Nickelodeon, had revenues totaling \$4.3 billion in 2001.

The NFL estimates that revenues will grow by an additional \$1 billion over the next three years. "When [Tagliabue's predecessor] Pete Rozelle ran the league, it was a football business and a good one," says Paul J. Much, a senior managing director of investment firm Houlihan Lokey Howard & Zuckin. "Now it's truly an entertainment business." Says Tagliabue: "In 1989, I inherited a great structural underpinning, the equal sharing of TV money. We've added three more pillars to that: branching into new media, including satellite TV; creating a narrow band between player salary cap and floor; and using our growing TV revenues to ensure that new stadiums could be financed."

As evidence of the faster march into showbiz and the push into distribution, BusinessWeek has learned that the NFL will hire Steve Bornstein, 50, one of the architects of ESPN and a former top executive at Walt Disney Co., to be in charge of TV and media. Bornstein will also be CEO of a 24-hour, NFL-owned, digital cable channel devoted to football—though the only games shown will be classics. The channel, which will include news and commentary, will launch later this year.

Also in the works are plans to sell the league's rich archives through a video-on-demand service that will allow fans to watch old game footage for a fee. In addition, Tagliabue is expected soon to announce a deal with Time Inc. to put out an NFL magazine. And ESPN is nearing a deal with the NFL Films unit to help develop two original movies.

Unlike other leagues with big corporate owners such as AOL Time Warner, News Corp., and Walt Disney, no company has ever owned an NFL club. The league maintains that individuals care more about winning and corporations care more about their shareholders—not that there's anything wrong with that. NFL ownership groups are restricted to 25 people, with the principal owner holding at least a 30% stake. And an owner can borrow only \$125 million against the value of the team. By contrast, the free-spending lords of baseball were allowed to tap an MLB-backed loan pool almost at will—jacking up the teams' collective debt to \$3.5 billion today from \$593 million in 1993.

In the NFL, strict oversight ensures that the 32 teams equally divide about 63% of total revenues. That helps level the playing field when it comes to buying top talent. In fact, the combined revenues of the top eight richest teams is just 28% more than the eight teams on the low end. The NFL closely guards revenue and earning numbers, but it is widely believed that almost every team turns an operating profit. In baseball, by contrast, revenue is largely dependent on how much teams derive from local broadcasting contracts, not national deals. In 2001, the local revenues generated by the richest team, the New York Yankees, were \$218 million. The poorest team, the Montreal Expos, took in just \$9.7 million.

Jerry Jones, 60, the hands-on owner of the Dallas Cowboys since 1989 and one of the most aggressive businessmen in the league, takes the view that sharing revenue is all well and good but that teams need to seize their own marketing opportunities. In fact, the NFL has sued Jones over his aggressive local sponsorship deals. Still, Jones doesn't seem bitter and likens owning a team to acquiring a piece of art. "You're not going to see an inordinate amount of annual return on your money," he says. "It's all in the potential appreciation."

On the other hand, revenue guarantees have been swiftly driving up the value of an NFL franchise. In 2000, advertising executive Daniel Snyder, 38, shelled out a record \$800 million for the Washington Redskins and its stadium. Previous owner Jack Kent Cooke paid \$300,000 for a 25% stake in the 'Skins in the early 1960s. The newest owner is Arthur M. Blank, 60, the retired co-founder of Home Depot. Last year, he spent \$545 million for the Atlanta Falcons, which had the league's second-lowest attendance record—an average of 52,000 a game. Previous owner Rankin M. Smith Sr. paid \$8.5 million in 1965.

H. Wayne Huizenga, 65, owner of the Miami Dolphins and ProPlayer Stadium, used to own MLB's Florida Marlins and the NHL's Florida Panthers. After losing more than \$100 million collectively, he sold both. "[The NFL] is the only thing that makes sense in sports today," he says. Huizenga, who is chairman of several real estate companies and serves on the board of AutoNation Inc., says the disparity of local revenues in baseball and hockey makes it impossible to compete if you're not in the TV-rich market of New York City. "I keep hearing about the Yankees dynasty. It makes me sick. Put me in that local TV market, and I would have had a dynasty, too," says Huizenga. He won't disclose the Dolphins' financials but says: "We do make some money."

One of the most important changes in the economics of the league has been new stadiums. "It's been the biggest transformation in the balance sheet of the NFL since I've been commissioner," says Tagliabue. With criticism of public funding for stadiums growing louder, the owners in 1999 authorized the league to go to Wall Street to sell bonds, the proceeds from which would be used to lend money for construction at low interest rates. So far, \$650 million in such loans has helped build or renovate eight stadiums, including Gillette Stadium in Foxboro, Mass., and Lincoln Financial Field in Philadelphia, which opens next season. Gone is the emptiness of yesteryear's cold concrete shells. The new stadiums—adult theme parks, really—create fresh revenue streams from sources such as luxury suites, club seats, high-tech signage, restaurants, and shops.

Still, the league faces sizable risks. More than 50% of revenues comes from the money television pays for the rights to show NFL games. The league is in year five of an eight-year, \$18 billion package with ABC/ESPN, CBS, and Fox. But all three are part of media companies that have just endured one of the worst ad recessions in decades. When renegotiation time rolls around, it remains to be seen whether they will pony up as much as they have in the past. For example, News Corp., owner of Fox, in February announced a nearly \$1 billion write-off from losses associated with its sports contracts.

Morgan Stanley last year estimated that media companies would lose a combined \$2 billion on the NFL over the term of their deals. Still, as part of the current pact, the league has until Feb. 15 to renegotiate terms or extend the contract. Or it can just wait for it to expire in three years. "The networks are between a rock and a hard place because they are bleeding money, but they want to have the NFL as a platform to promote the rest of their schedules to that enormous audience," says Morgan Stanley analyst Bilotti. ESPN will be the only one to make money on the current deal—an estimated \$50 million profit, according to Morgan Stanley—in large part because it can get revenues from both advertising and hefty fee increases it charges cable and satellite operators.

NBC, a unit of General Electric Co., walked away from football in 1998, refusing to cough up for new rights after 34 years of broadcasting AFC (and earlier, AFL) games. CBS, which in 1994 lost the NFC to Fox, won the AFC contract by shelling out \$4.1 billion over eight years. Executives at NBC, who also passed on an NBA contract last year, say privately that they have no regrets. They estimate that the net would have lost upwards of \$1 billion if it had kept the NFL. "Look," says one network executive, "NBC was the No. 1 network in terms of ratings when they walked away, and they still are. In other words, if you don't have it, it doesn't kill you."

The fear in NFL offices is that other nets, pressured by parent companies, will take the NBC line in three years. "Will the next negotiation be a difficult one? Sure," says Howard Katz, president of ABC Sports, home of Monday Night Football, which has struggled with declining ratings, though viewership was up 4% this season over last.

So Tagliabue is already talking to the nets about flexible scheduling that would allow last-minute switches to more competitive games on Monday night. An additional prime-time game on Sunday is also under consideration. Such ideas aren't going over too well with Fox and CBS, which don't want to give up a daytime game to rival ABC/ESPN. The only certainty next time around, network execs say, is that there must be plans in place for a Los Angeles team (page 92).

**More viewers, yes. But not all football, all the time.** Talk about expanding the NFL's presence on TV fuels worries about consumers reaching a saturation point. "We're always concerned about commoditizing the NFL," says Chief Operating Officer Roger Goodell, 43, son of the late New York Senator Charles Goodell and thought to be the leading candidate to succeed Tagliabue. "But we still see extraordinary demand for what we offer. It's the best reality TV going."

At the same time that the TV contract expires, so does the league's labor agreement. The NFL is widely seen as having the most favorable player deal in pro sports, with average salaries at \$1.2 million. True, the average NBA salary is \$4.5 million. But don't cry too hard for the footballers, many of whom get fat signing bonuses not figured into that average salary. Philadelphia Eagles quarterback Donovan McNabb, the league's highest-paid player, for one, will

make \$21.7 million this year, almost all of it from his signing bonus. While the salary cap has been instrumental in bringing parity to the league, there is a downside: Teams sometimes must cut veteran players, alienating fans. Overall, though, the league has a highly dedicated following. Despite some erosion of support in the face of so many other entertainment options, NFL fans remain the most loyal of any sport, followed by those of the NBA, then baseball and hockey, according to a newly released index from consultant Brand Keys Inc. One big reason so many are so hot for football is gambling. An estimated \$560 million is wagered on NFL games each year in Nevada alone, the only state where sports betting is legal. Estimates of illegal betting, of course, go into the billions.

To understand the roots of the NFL's powerful and enduring brand, you have to go back to 1960 when new Commissioner Rozelle, then 33, persuaded Washington to pass the Sports Broadcasting Act. That allowed leagues to sell broadcast rights as a package and gave them much more clout in negotiating favorable contracts. The first NFL deal was reached a short time later with CBS, which agreed to pay \$4.6 million, split among the teams.

Rozelle is credited with transforming modern sports by marrying games with TV, and needless to say, when he retired in 1989, his were big shoes to fill. The differences between Rozelle and Tagliabue, who was hired to replace him, could not have been more striking. Rozelle, a tanned Southern Californian and former PR man, had the gift of schmooze. Jersey City-born Tagliabue, who played basketball at Georgetown and had been the NFL's outside lawyer at the Washington firm of Covington & Burling, was seen as stiff and reticent.

But Tagliabue's methodical, lawyerly approach has served the league well, say those who have worked with him. He sweats every detail. His office in the NFL's Park Avenue headquarters in Manhattan is littered with yellow legal pads on which he often diagrams his strategies. And his interests extend well beyond the gridiron. In fact, the commish will actually read the front section of The New York Times, where his brother John is a highly regarded foreign correspondent, before digging into the sports pages. A former Pentagon policy analyst during the Johnson years, Tagliabue is just as conversant with America's Mideast policy as he is with the NFL's ban on the supplement ephedrine.

While Rozelle may have delivered the NFL to the media altar, it is Tagliabue who has made the union a lasting success. He studies the media, lunches regularly with Rupert Murdoch, and is a frequent guest of investment banker Herb Allen at his annual gathering of moguls. And with an annual salary and bonus totaling \$8.5 million, Tagliabue is indeed a member of the media elite.

Robert Kraft, who made his fortunes in paper and packaging and has owned the New England Patriots for nine years, is one of the beneficiaries of Tagliabue's innovative reign. Kraft's new Gillette Stadium, which cost \$345 million and was partially financed by the league's novel bond scheme, features two large clubhouses--sponsored by Fidelity Investments--that boast working fireplaces, chef stations, and several bars. There is a McDonald's above each end zone. The stadium has a capacity of 68,000, with 6,000 club seats in midfield that go for as much as \$6,000 apiece for 10 years. More than 50,000 fans have put down a deposit to be on a waiting list for season tickets.

On the last weekend of the regular season, as the Super Bowl defending champion Patriots host the Dolphins in a game with crucial playoff implications, Kraft seems practically giddy. The sellout crowd is supercharged with adrenaline after fighter jets perform a scorching flyby timed to the last note of The Star Spangled Banner. Following the kickoff, the 61-year-old Kraft, who had open-heart surgery last summer, runs from the field to take his place up in the owner's suite. He gazes out across what he calls "my new home," a far cry from the expanse of rickety aluminum bench seats at the old Foxboro stadium. As the Patriots contain the Dolphins on the first set of downs and the crowd roars, Kraft rises from his seat--a Caesar before his legions--waving his arms to signal: "Louder, louder." The stadium erupts, and a smiling Kraft turns to a guest and like a schoolkid at his first game, shouts: "Is this cool, or what?"

The Patriots come from behind to beat the Dolphins in overtime. But a win later that Sunday by the New York Jets ends the postseason hopes of Kraft and New England. Emperor one minute, off the throne the next. That's the way it is in the frenzied, fast-money empire called the NFL.

How the NFL Levels the Playing Field

TOTAL LEAGUE REVENUES IN 2002: \$4.8 BILLION	THE RESULT:
\$200 MILLION (4%) comes from DirecTV's Sunday Ticket, merchandise, NFL Films syndication fees, and sponsorships. It is divided equally. Each team gets \$6.2 million.	\$3 BILLION (63%) divided evenly among teams. Of that amount, there is a cap on how much can be spent on players' salaries and benefits--and a minimum that must be spent. In 2002, the cap was \$83 MILLION per club, the minimum \$72.5 MILLION. This system has created the most level playing field in pro sports.
\$1 BILLION (22%) comes from local sponsorships, luxury suites, broadcasting, parking and concessions. It is retained by the individual clubs.	
\$1.1 BILLION (22%) comes from ticket revenues. \$350 million of it is put into a visitors pool and split evenly. Each team gets \$10.9 million.	
\$2.5 BILLION (52%) comes from network-and cable-TV contracts and is split by the 32 teams, giving each \$78 million.	

### Other Leagues Share a Lot Less of the Wealth

	REVENUES 2002	PERCENT SHARED EQUALLY
NFL	\$4.8 Billion	63%
MLB	\$3.5 Billion	20%*
NBA	\$3.0 Billion	35%
NHL	\$2 Billion	9%

\* Will rise to 34% in 2003

In 14 years as commissioner, Paul Tagliabue has helped make the NFL the premier pro sports league. Here's how:

1. Negotiating a labor agreement with players that has been extended three times with relative peace.
2. Striking national television deals that pay the league hefty increases each year.
3. Working closely with owners and cities to build new football-only stadiums--20 since '93.
4. Pumping up the NFL brand by pushing into all areas of media, from music to Hollywood to a new TV channel.

### Questions

1. Make a list of the strategies followed to make NFL the most successful advertising campaign.
2. Which are the key actions the Paul Tagliabue followed.
3. The author says that NFL faces financial risk what suggestions you may have to keep NFL's advantage position in the following years.

# WORKSHOP PRACTICE

Licenciatura en Administración de Empresas  
AD-413 International Marketing  
Formation Area: Marketing

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**Case 8****Place:****Length:****Lecturer:****Objective:****Developing a International Marketing Plan**

Classroom

2 hours

The points of a Marketing Plan are general. They are designed to provide direction to areas for relevant data. In each plan, specific points must be adapted to reflect a company's products. The decision as to the appropriateness of specific data and the depth of coverage depends on company objectives, product characteristics and the country market. The goal is to define them for your project.

Activities during workshop:

7. Review what minimum elements should be considered to develop a International Marketing Plan
8. Practice procedure
  - 8.1. Prior class you have to read the article and answer the questions.
  - 8.2. Prepare your written report solicited in questions section.
  - 8.3. Group discussion to find consensus answer.

Ship it! Whether buying or selling, there are ins and outs for importing or exporting in  
today's global marketplace  
Marjorie Whigham-Desir

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SINCE MARCO POLO TRAVELED HIS FAMED TRADING ROUTES and Bedouins plied the fabled markets at Timbuktu, entrepreneurs have scoured the globe buying goods in one place and selling them in another. Big corporations have long been invested in the \$1.3 trillion twoway trading between the United States and foreign countries. But a new era of global commerce is dawning as more American entrepreneurs venture into the import/export business. Now smaller traders—from one-person shopkeepers to mid-sized wholesalers joint venturing with other businesses—are launching out overseas.

When Todd Alexander decided to start a business importing fine Italian wines home to Atlanta in January 1993, he thought the application process would be simple. He got labels of the 60 brands he planned to import, attached a check for the registration costs of each—about \$10-\$20 per label—and filed the appropriate forms with the state and federal government. The only thing left was to wait for a series of personal and financial background checks to be completed. But what Alexander thought would take three or four months ended up taking nine.

Maybe it was because Alexander, who owns Vendemmia Inc. (which means "harvest" in Italian), was only 26 years old when he applied to become an importer. Or maybe it was because alcohol is one of the U.S. government's most regulated commodities. Whatever the reason, Alexander says he was grilled a hundred different ways. "The hardest part has been the paperwork for the state and federal government," he says. "There are so many forms to fill out and I hate paperwork."

For entrepreneurs looking to export, the lure of much-wanted U.S. goods abroad, from boilers to telecommunications, bring visions of cashing in on the \$575 billion in exports. Equally attractive is the export of "intellectual property," a.k.a. technical skills and management training by American consultants and project managers to foreign governments and corporations. On the flip side, U.S. businesspeople who wish to import are usually either seeking to cut product or labor costs, or want to sell exotic items that aren't "made in the U.S.A."

But neither logistics nor language are keeping either side at bay. Thanks to telecommunications, transportation and other high-tech systems, the geographic borders of the world are blurring. Whether you're importing or exporting, you have to develop a market strategy, learn the process and regulations, understand the nuances of culture and customs, and be committed to making it work to be successful internationally.

#### DETERMINE IF YOUR COMPANY OR PRODUCT IS EXPORT-READY

If you have dreams of taking your company or product global, you first need to assess whether there's even a market abroad for what you have to sell. As a general rule, most American goods are considered wanted and valued overseas—even when similar items are made in that country. But there are a few questions you should ask yourself first: Is my product or service successful domestically? Who buys it and why does it sell well? Is there a foreign market similar to it? Will this make it easier to sell abroad?

You should also make sure your domestic business is strong enough to allow you to spend time developing the international side in both capital and time resources. You should also examine how an international sale will dovetail with your overall business plan and domestic marketing strategy. If you've made a pro-export assessment, then it's time to get some outside opinions.

"Go through any department of commerce," suggests Karen Babino, manager of marketing and business development for TransAtlantic Imports in Atlanta. "The federal and state governments, even in most major cities, have an international desk or affiliation, and in some cases, offices abroad that you can call on," she explains. When going global, advises Herb Smith, chairman of Smith International Enterprises, a global sourcing import distribution company with offices in Cleveland and Hong Kong, check with your state's economic development office. Many states now have their own international trade offices with field offices located around the world. They can provide help, from finding office space and equipment to information on special assistance programs offered to exporters.

The federal version, the U.S. Export Assistance Center (EAC) can help you assess the international potential for your product. An outgrowth of a joint effort between the Commerce Department, the Small Business Administration and the Export-Import Bank, EACs are one-stop resource centers where entrepreneurs can get expert advice, foreign market research and access to export financing.

EACs are a unit of the Commerce Department's Commercial Services Division, and offer customized services, from an international company profile (\$100), which can provide information on prospective trading partners, to customized market analysis (\$5,000) of your particular company and product or service. The offices are staffed by Commercial Service officers who can assist in your search.

Part of the EAC's mission is to increase the number of small- and mid-size companies exporting products. There are 19 domestic EAC hub sites around the country: Atlanta; Baltimore; Boston; Charlotte, North Carolina; Chicago; Cleveland; Dallas; Denver; Detroit; Long Beach, California; Miami; Minneapolis; New York City; New Orleans; Philadelphia; Portland, Oregon; San Jose, California; Seattle and St. Louis. They also do on-site counseling for potential exporters, all free of charge.

Private organizations such as Assist International (212-725-3311) can help you get started for a fee, while nonprofit ones like the National Minority Business Council (212-573-2385) of New York City offers free help.

#### DO YOUR HOMEWORK

Research and identify the best foreign markets for your product or service. This is the basis for your international marketing plan. Assess where the best places are to start and identify a strategy for entering that market. K.L. Fredericks, director of the Harlem office of the EAC, suggests using the "funnel approach," which means considering all countries as potential customers. From there, she advises using population and statistics, economic reports, domestic and foreign government regulations, political and currency stability assessments, trade barriers or special assistance programs to identify the best potential markets for your product.

Look at the top 25 markets where your product or service is needed. You can create this report using Census Bureau statistics for both imports and exports and by searching through the National Trade Data Bank (NTDB) at federal depository libraries (<http://www.stat-usa.gov>). The NTDB uses an international "harmonized" coding system to determine how well a product will sell overseas. This system gathers statistics from the product's shipments and ranks it in both total dollars spent and the number of units purchased. "The focus should be on the product, not the country, unless you have a particular expertise," adds Fredericks.

Foreign service officers at Commercial Services offices overseas are also a source of information on a particular product in a given country that can be funneled back to the EAC office. They can also provide a list of distributors in that country.

Even when importing, you need to be aware of the regulations in the foreign country you are buying from and the U.S. Customs and state requirements governing products coming in. Not knowing the process may cost you time in receiving your goods, and money.

That's what happened to Floris Brown last August when she went to Ghana to buy collectibles to sell in her Afrocentric boutique, JGillyard Treasures, in a St. Louis suburb. Although Brown had been to Ghana twice before, like most tourists, she'd always brought her things back home in suitcases. This time, she decided to import the items like a real businessperson and split the shipping costs with another vendor whose husband knew how to import.

But when her partner backed out, Brown was left to handle the shipping process herself. This included getting a shipping container and arranging for its transport to providing the appropriate documentation--including a "bill of lading" describing the cargo and stamped by the exporting country--and an "entry of goods" form filed with U.S. Customs upon arrival.

Fortunately, her Ghanaian hosts were local business owners who knew a shipping agent. "My friends knew the process and that's the only reason I ended up doing this," says Brown. She just managed to get her 1,100 pounds of African statutes and carvings on a ship headed for Savannah, Georgia, the day before she was to return to the U.S. The total cost to transport the shipment, which included the container, shipping costs, terminal handling charges and harbor fees, was about \$1,100.

"Basically, I was dependent upon someone else for everything--I'll never do that again. Next time, I'll know what to do myself," she reflects.

Enthusiastic but ill-prepared entrepreneurs like Brown set out into international ventures expecting to do business the way they operate domestically. Rarely does it work the way they envisioned.

"That's why you have to spend time with someone who has done this before," says Karen Mayo, executive director of special projects for the Port of Miami and president of Mayo Communications International, a Miami-based marketing firm.

Had Brown contacted the U.S. Customs Service before leaving home, she could have gotten information on how to import her container, including a list of authorized shipping agents and brokers participating in its Automated Manifest System. She then could have been granted a conditional release of her shipment upon arrival from Ghana and five days before actually landing stateside.

#### LEARN THE COUNTRY'S CULTURE AND CUSTOMS

Part of doing your homework is understanding the people and their culture. While it sounds all too simple, it will be a linchpin to your success. "Study your market," advises Fredericks. "Language and customs can be a barrier to trade," she readily points out. People usually do business with people they know or get to know, and feel they can trust with their ideas, time and money. Communication is crucial to that exchange, whether you're exporting or importing.

While international firms may prefer to communicate with American businesses in their native tongue, most expect to communicate in English, the international language of business. However, it behooves American entrepreneur to become familiar with the language, especially in Latin American and European markets, if they expect to win customers.

That's what helped Alexander, now 29, launch Vendemmia Inc. (see "Drinking in Profits," *Enterprise*, September 1996), a \$1.2 million Atlanta-based wine distribution business. Fluent in Italian, Alexander loved the culture, its wines and traveling back and forth to the country he first visited as an exchange student in high school.

After college, he got a job working as a management trainee for a New Jersey-based wine distributor. A few years and some experience later, he quit and headed back to Italy on a six-month trip to write a book on Italian wines.

"Halfway through the trip, I decided I was going to import Italian wine because the vintners were unhappy with their U.S. distributors," explains Alexander who says his ability to overcome the language barrier was a huge plus. "Being able to pick up the phone and speak the language allowed me to start as quickly and efficiently as I did."

#### DEVELOP AN INTERNATIONAL MARKETING PLAN

Now that you've identified your market, you have to determine what your goals are there--sales, market penetration, distribution sources, even the terms and conditions of your sales agreements. You should also include the strategy for financing and capitalizing your efforts. This plan will outline your strategy for entering that market and form the backbone of your international structure.

"You must have the same elements in your international plan that you have in your domestic plan, while allowing for differences in pricing, distribution and transportation costs," advises Mayo.

The International Trade Administration (800-USA-TRADE; <http://www.ita.doc.gov>) in the Commerce Department and its partnering agencies, from Agriculture to the Small Business Administration, can also help you identify the specifics your plan should include, such as marketing and pricing strategies.

The plan should address your strategy for distributing your product in that country: indirect, direct or via foreign investment. If you want to import, the process is essentially the same, only done from abroad.

Indirect exporting allows you to sell or distribute your product via a middleman such as a broker or export management or trading company. Direct exporting means your company will sell directly to that foreign consumer or find a local representative on your behalf. Both methods are good options for small businesses just getting into the international market. Exporting via foreign investment entails establishing a physical presence in that country via an office, distribution center, assembly operation or even a manufacturing facility. A variation is selling directly to a foreign company stateside, providing the appropriate sales receipts and letting them take responsibility for getting the product out.

That was the case for A.L. Eastmond Inc. and its EASCO Boiler Corp., an industrial boiler manufacturer in Bronx, New York. A few years ago, a Mexico City factory-owner was "visiting the area when someone told him about us" says owner Leon Eastmond. "He contracted us and we sold him a firebox boiler. We built everything here and he arranged for all the transport and shipping," he adds. The risk to Eastmond was nil; technically, he sold a product domestically that was bound for export.

Or perhaps you decide to set up a foreign-based distributorship that has ties, if not a partnership, with a foreign-based firm. That's what Smith did when he bought a Hong Kong-based import business from an American firm that distributed "soft goods" to discount stores like Kmart and Dollar General.

"After I bought them, I found out that their one client was in financial trouble and losing its business. I had to develop new business. I also had to find key suppliers over there for things that could be supplied to American businesses," explains the CEO of Smith International.

Smith's business strategy was to create a company that could do business in China via a joint-venture relationship with a Chinese firm. That may be the only way you'll get to do business, particularly in the Far East where foreigners cannot own businesses outright.

Every marketing plan must have a budget and address the financing and the capitalization costs needed to do business abroad. "Most small business owners can't stay away as long to travel far, and the costs and expenses involved are felt to be too much for smaller businesses," explains Joseph Saffell, chairman of the International Business Development Consortium Inc. For that reason, he advises African American entrepreneurs to look closer to home to places like the Caribbean.

"Many businesses say that access to capital to venture into new markets is the main drawback," says EAC's Fredericks. For companies trying to export, there are financing sources and lines of credit through state and federal governmental programs. Such agencies include the SBA for loan guarantees under \$800,000 and the Export-Import Bank for deals over that amount.

"In China, they deal with an irrevocable letter of credit," explains Smith. Besides ownership restrictions, Smith says his company is also based in Hong Kong because its currency is pegged to the U.S. dollar, ensuring a stable currency. He advises that once you begin to look at global markets, check with your local domestic bank to find out if it has foreign affiliates or associations so that it can make bank or credit transfers for your firm.

But in smaller developing countries, particularly when importing from cottage-sized crafts-based businesses or small manufacturers, it's often cash-in-advance; without it, many of these vendors cannot even start a project.

#### KNOW YOUR MARKET

Language may not be the only barrier to building an international business. Often there is an intelligent style of working in other countries. So, if you're trying to get a product made very quickly, time may be an issue, especially when importing on a deadline. Similarly, in some countries, offering an "incentive" may be expected to get your product in or out.

"A timetable is a major problem in Africa and India," says Alioune Dieng president of AfritexUSA, a New York-based fabric wholesaler. "You could have agreed to a certain time and not get your goods because time is not seen the same way there. Time means money here in America," says Dieng, who also has suppliers in Pakistan and China.

The perception of what is quality and cultural differences may also affect your product. That's what Twyla Lang-Gordon found out when she began importing "customized" kente cloth to sell to Greek sororities, fraternities and graduating seniors. "I had a friend from Togo whose family owned a kente cloth manufacturing plant. I was able to place an initial order for 40 scarves with them. I mailed a sample scarf along with a cash advance. When they sent back the package, they'd made up the scarves with the lettering going sideways!" she recalls. "I took them to the meeting anyway, and sold out. I told them they could wear it as a belt," she recalls. "They [weavers] were envisioning them as designs and were not familiar with Greek letters at all."

Since then, the Los Angeles-based Motherland Imports has moved its operations from Togo to Ghana and gone through several "weaver villages" before finding two that now supply the 5,000-6,000 scarves Lang-Gordon sells annually the way she wants them.

She also realized that she needed a local representative to communicate her needs more effectively and monitor the quality of her product. "You have to have someone over there checking on your product and making sure you're going to get your order," advises Lang-Gordon. It's also the way she communicates with her village factory, since telephones aren't readily available.

#### BE IN IT FOR THE LONG HAUL

Ultimately, the best advice is to take your time and understand how the international marketplace will fit into your overall business strategy. In fact, if your domestic strategy is strong and your reputation known, you may not have to go out looking for business—the opportunities may come to you.

Eastmond says his company's products are legendary: "We have the fastest turnaround—to build, set up or provide emergency service—of anyone in the country," he says matter-of-factly. That Eastmond can build a complete ready-to-install system at a competitive price has made the \$15 million company a favored supplier of contractors and engineers. It's also gotten it the 1994 Manufacturer of the Year award from the MBDA. Having your own Web site also doesn't hurt when searching new markets.

K.L. Fredericks contacted Eastmond about turning EASCO's sights abroad. "The Commerce Department came with a detailed marketing survey of our products and their potential market in China," explains Eastmond and his director of marketing, Omor Igichon.

"The Chinese have a \$1 billion annual boiler market." It is also typical of the \$220 billion in large-scale projects scheduled to begin in BEM (big emerging market) countries by 2000.

EASCO is now considering an export deal to China for 12 of its boilers, in a range of sizes, to supply heat and hot water for apartment buildings that will house 50-1,000 families in Beijing. To make the deal, Eastmond may partner with a New York-based Chinese firm that wants to be its representative there. The process has taken two years.

But for now, the 70-year-old manufacturing company is proceeding cautiously. "We're negotiating pricing. If we can't make money, I'm not doing it," states Eastmond, who'll ship the units the same way he did to Mexico--ready-to-install and without the responsibility for shipping it. Never one to lay all his eggs in a single basket, Eastmond says the local markets of New York, New Jersey and Connecticut are his "bread and butter." But he's looking to expand nationally and internationally if the deal is right--a move that more 21st century businesses will have to make.

"What businesses must understand is that soon they will no longer have a choice about whether to go international or not, because international is coming to them," says Mayo. "We need to start thinking global because our neighborhood is the world. And the sooner you're ready, the more likely you'll win."

#### **Questions**

1. Which are author's main things to consider in developing an international business plan?
2. Make a list of issues and themes you have to emphasize in your final project.