

Don't Believe the Hype: All Business IS Local

Striking deals abroad is not always easy. While legal deal frameworks and priorities are converging to a set of common global business approaches and forms, a big part of getting the deal done relies on local customs and legal traditions. In order to do business efficiently as a North American in the Middle East and best bridge the cultural-business gaps that may exists, it is important to not only adopt the right mindset but to make the personal effort of trying to understand how local practitioners work on the ground.

Il n'est pas toujours facile de faire des affaires à l'étranger. En dépit de l'émergence, au niveau international, d'un cadre légal commun et de priorités communes, une grande partie de la conclusion d'un contrat repose encore sur des traditions juridiques et habitudes locales. Pour faire des affaires efficacement en tant qu'Américain du Nord au Moyen-Orient et combler le fossé culturel et « business » qui pourrait exister, il est donc important non seulement d'adopter le bon état d'esprit, mais aussi de faire l'effort personnel de comprendre comment les praticiens locaux travaillent sur le terrain.



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There is no doubt that the interconnected and global nature of the modern economy has opened unprecedented possibilities and opportunities for all of us to grow and expand our businesses in ways previous generations could not have imagined. Technology, access to data, and easy travel have lowered entry barriers and unlocked markets like never before in human history and we are all eager to take advantage of these opportunities to find new partners and places to do business.

So why is it that it still takes some old-fashioned ideas, patience and hard work to get real deals done? It's because we can't be fooled that, while opportunity is global, business IS still very much a local and personal endeavor.

Just like misunderstandings and mistrust can arise between people of the same country or even between colleagues in the same company; beneath all of the hospitality and formality of international business dealings, the same potential risks cannot be masked. I have seen this play out many times in my business dealings between North America and Middle East business people. These interactions often optimized by the cliché: "two ships passing in the night".

In order to do business efficiently and effectively as a North American businessperson or advisor in the Middle East and best bridge the gaps in business and legal traditions, it is important to first adopt the right mindset, vocabulary and expectations from the outset.

1

Of Sound Mindset

The first trap to avoid is believing one's success and credentials in your home market, no matter how sophisticated and advanced they may be, entitle you to absolutely anything more than a credible opportunity to compete as a foreigner. No legitimate businessperson is desperate enough to shortcut what should be the normal value driven assessment and trust building measures that are just as essential to doing business in your own home market. In fact, be wary of those who don't seem interested in that traditional deal path – if it seems too good to be true – it usually is. This rule does not go out the window just because one is far away from home and caught up in the energy and excitement of a new and growing market.

All accomplished business people value their resources and capital and one should not expect any less in the Middle East, no matter the extent of a counterparty's means. Having that same respect will go a long way to getting one's own expectations of the necessary time, work and effort required to get real deals done.

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Respect is the key ingredient to establishing the necessary trust that forms the basis of any important and meaningful deal. Simply put – without trust there is no deal. Business trust can never be attained without mutual respect and expending the necessary effort to build trust. If a market or opportunity doesn't warrant this level of commitment from you or your business, then one should not bother to take that first step.

Another tip is to think of trust building for business as both a formal and informal project. In North America, in many ways business trust rests upon an invisible shared history and conventions as well as an additional layer of applicable laws and regulatory protections. This goodwill and familiar legal infrastructure are transparent and straightforward to the familiar eye. In the Middle East, while legal regimes are developing many of the same types of laws and regulations, trust building in the business context can still have a more informal reality to it. However, one should never lose sight of the core substance of the matter at hand, which is to build the necessary foundation of trust to negotiate a deal. The same applies in North America, but perhaps primarily developed through some different means.

As in North America, no real value driven deal can be forced or negotiated before its time and accordingly, one needs to adopt the mindset and have the patience to recognize the same applies in the Middle East.

2

Words Matter

Words still matter. Often people in the Middle East will be asking common business questions but the vocabulary will differ from that in North America. For example, people may be talking about Islamic financing options and that should not be interpreted as unnecessarily foreign or unfamiliar because it may just require looking at equity or asset-based financing, joint ventures or ethical investing options, which are common items, considered in North America. It doesn't carry any additional AML, KYC or legal obligations beyond what would already be required under any applicable national laws here or abroad.

The key skill in mitigating misunderstandings resulting from vocabulary is to listen closely and looking for common ground rather than just focusing on identifying differences.

Another aspect of business dealings in the Middle East is the formality of scheduling and confirming meetings or memorializing certain introductions or basic business understanding by letter. This is just a more formal exercise in confirmation and should not be interpreted as anything beyond or be a source of mistrust or frustration in business dealings. Don't let these types of minor formalities scare you off and one's words in response matter.

3

Great Expectations

There is no substitute for hard work and like in North America, shortcuts and coasting will not be rewarded. One's expectations should be that it would take at least as much work and time to negotiate a deal in the Middle East as it would at home, irrespective of the size of the opportunity or the resources available. For conservative planning purposes, one should add even a little more time into their deal planning schedules to accommodate any additional cultural or "new market" issues one may encounter.

Also, it is important to keep in mind that the time taken in "social" settings and over meals is also part of the work and effort necessary to get a deal done and build the necessary trust and relationships. At the same time, gracious hospitality and generosity are part of the Middle Eastern culture so do not confuse such hospitality with approval of a deal. Like in North America, business must still be earned the hard way.

Having the right expectations will again prevent unwarranted and unnecessary frustrations that can jeopardize what could otherwise become a great business relationship.

4

Law is a Local Tool

The last thing is to never lose sight of the fact that law itself is a local business. While often strategic deal advice is not necessarily dependent on legal jurisdiction, no transaction can ultimately be executed without exceptional local law advice and expertise. On that front, it is critical to ensure your team includes or has partnered, well in advance, with exceptional local law counsel to get the deal done.

Having the best local legal tools in your toolbox is indispensable

Having the best local legal tools in your toolbox is indispensable and all your North American expertise still can't help you with that.

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The Good News

The good news is, with all these potentially different business practices, there is growing convergence in deal trends. Legal deal frameworks and priorities are converging to a set of common global business approaches and forms in many ways. There is an overall

internationalisation of accepted business principles and negotiations. This also opens the door for legal advisors with the right relationships and experience to strategically advise on the substance of deals and to help effectively negotiate them regardless of their home jurisdiction. It also allows legal advisors to provide even more strategic value added advice and expertise in the global context to the benefit of their clients and themselves. With the right approach, the historic global opportunities presented in the modern economy have something for everyone, including legal advisors.

BIOGRAPHY

DANY H. ASSAF is a Partner and co-chair of the Competition and Foreign Investment Review Practice at Torys LLP in Toronto. Mr Assaf's practice focuses on advising international and domestic clients on all aspects of competition law and foreign investment matters including in the area of national security reviews. He acts for Canadian and international clients, advising on all aspects of competition law and foreign investment matters under the Investment Canada Act

Mr Assaf also has a Middle East advisory practice, advising clients in both the private and the public sectors on Middle East investment and capital market matters. He is a co-founder and instructor of the inaugural Islamic Finance course as part of the Executive Programs at the University of Toronto's Rotman School of Management and published on a variety of related topics on the matter.



Rule of Law – Business Climate – Cultural Gaps
Primauté du droit – Climat des affaires – Fossés culturels

ليس من السهل الاستثمار بالخارج. على الرغم من بروز إطار قانوني موحد على المستوى الدولي، وأولويات موحدة، لازال تحرير العقود يخضع في شقه الأكبر للأعراف القانونية و العادات المحلية. وللإستثمار بشكل فعال كأمريكي في الشرق الأوسط الشرق الأوسط و تقليص الهوة التي من الممكن تنشأ على مستوى الثقافة و الأعمال، وجب ليس فقط التحلي بالفكر المناسب بل و بدل مجهود شخصي لفهم عملي لطرق اشتغال المهنيين المحليين.