

Compliance and regulation: the expanding challenge

Local compliance and regulatory issues consistently appear as one of the main concerns for the increasing number of UK companies expanding into new territories. The decision to take a business into new overseas territories is increasingly seen as a key method of building a franchise, yet brings with it the need to ensure compliance with local legislation. There are many regulations that impact a business – for example, building controls, fire regulations, licence requirements, tax legislation, health and safety and other statutory requirements.



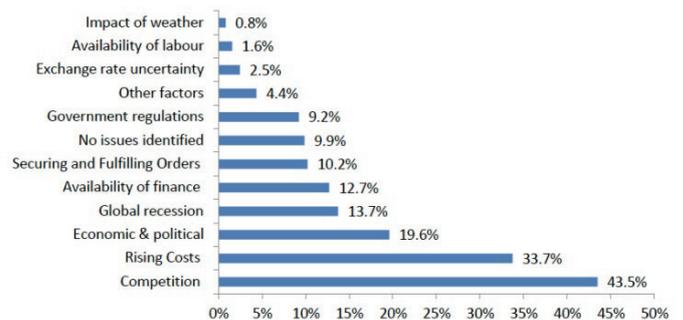
“The exporting environment has expanded enormously in the last 20 years, as globalisation has taken hold,” says Stephen Morton, VP multinational centre of excellence, AIG. “If your business is one of the many that is spreading beyond its established comfort zone, then success will depend to a significant extent on being on top of the local situation. Because this varies so widely across global jurisdictions, the key is to ensure full understanding of, and compliance with, individual territory regulations.”

Yet for many companies, there are understandable gaps in knowledge and confidence in what is a very complex arena, some of which are demonstrated in the International Trade Survey 2014, sponsored by AIG. For example, when the 3,000 or so UK-based respondents were quizzed regarding the major issues facing their businesses, 9.2% cited government regulations [Figure 1]. Perhaps more tellingly, when asked to choose between six differing factors that gave businesses their greatest level of concern, the largest proportion, 34%, pointed to the need to understand local regulations [Figure 2].

“Insurance regulations are one of many considerations. A business needs to understand all the regulations and to comprehend whether current arrangements provide adequate cover, or whether there is still exposure to risk that is not, or in some cases cannot, be protected against,” adds Morton. “However, it is not just about the cover itself. Insurance regulations include rules on where cover can be purchased from, who can provide that cover and depending on this, claim adjustment and claim payment will be impacted.

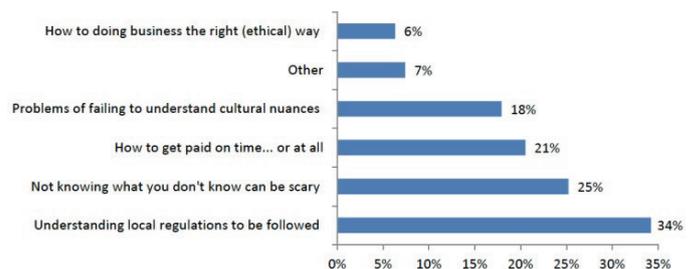
Many areas have to be investigated when determining from where and how to best cover foreign insurable exposure and the final decision must be a fully informed one, with a good understanding of what would happen in the event of a loss. Scenario testing is an important factor in the decision-making process.”

Figure 1. What are the major issues facing your business?



International Trade Survey 2014

Figure 2. The following comments have been made about trading internationally. Which one gives you and your business the greatest level of concern?



International Trade Survey 2014

Alterations to insurance regulations represent another hurdle. “In India, for example, there have been changes to the Companies Act 2013,” notes Morton. “If your exposure increases as a result of these or similar changes and you do not have the appropriate protection in place, companies may find themselves assuming that additional risk themselves. The correct insurance partner is essential to minimising this risk.”

Such is the concern over these issues that 14% of the respondents to the AIG study cited compliance with local regulations as a factor that might prevent them from developing overseas markets or exporting [Figure 3]. “Regulations undoubtedly give rise to exposure and, without a full understanding, a risk of surprise,” says Morton.

Law firms are an obvious port of call in identifying jurisdictional requirements and risks. “In Europe, there will be uniformity in some areas, like data protection and competition law. However the legal and regulatory requirement for your products will often bring their own, local ‘wrinkles’, in areas such as health and safety – and if you are selling on the Internet or the TV, there are a whole set of rules to identify and apply,” says Ivor Edwards, Partner, Regional Head of Corporate Insurance Group – Europe, Clyde & Co LLP.

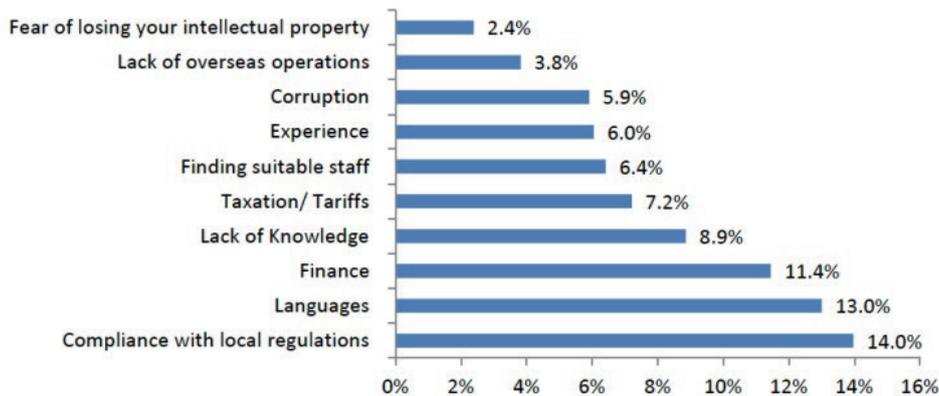
He continues: “There is also the question of how tax will apply. You will need local tax advice if working inside the country. By speaking to a local lawyer, you can keep abreast of changes in local laws and also be clearer about some of the unwritten local market practices.”

Morton says a detailed check list is required, to help build an understanding of the risks, and to narrow the confidence and knowledge gaps. “The procedure is to build a relatively simple risk register that can be checked to ensure that consideration has been given to the myriad of regulation and legislation that might impact a business and, where necessary, ensure that the business has been protected.”

The link between insurance and risk exposure is acknowledged by the AIG survey. When asked which key areas of risk relevant for exporters that are covered by insurance cause businesses the greatest concern, 7.1% of respondents pointed to the legal and regulatory exposures that were relevant to directors.

“Insurance falls naturally into the fit for purpose discussion,” says Morton. “Look at the exposure, ascertain whether you are protected, and determine whether you can fill the gap. For companies requiring support for a fast expansion, multinational insurance programmes can offer a global solution.”

Figure 3. What do you see as key factors which may prevent you from developing overseas markets or exporting?



International Trade Survey 2014

The International Trade Survey 2014 was sponsored by AIG, supported by The Institute of Export and undertaken by Trade & Export Finance Limited. Just under 3,000 UK-based companies, with turnover from less than a million to more than £100m, were canvassed, to investigate the current issues that have an impact on the ability of exporters and importers to trade in global markets.



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