

## **Internationalisation for Australian Law Firms**

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The International Legal Services Advisory Council (ILSAC) recently reported strong demand on the international market for Australian legal services and advised Australian law firms to look at the emerging markets of India and China. The report also suggested using an alliance strategy as opposed to the traditional hub and spokes pattern used by Australian firms. Aside from China and India, other markets in Asia are also gaining recognition as a report by the Economist states that 57% of executives surveyed worldwide said South East Asia was the most attractive destination for M&A activity.

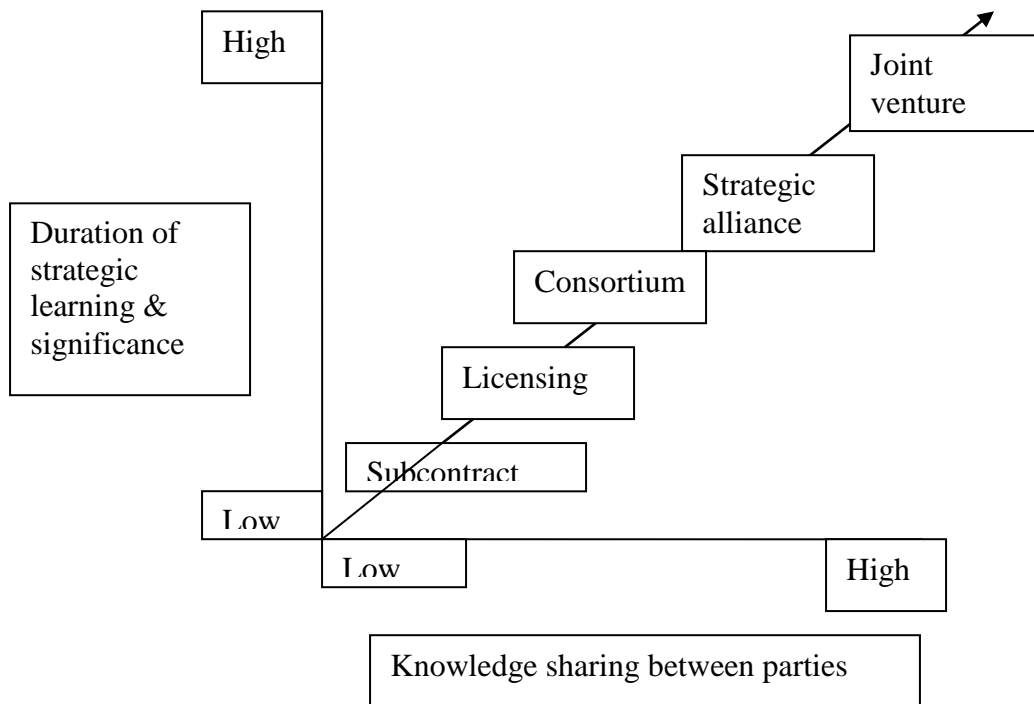
Whether a firm should set up a regional hub, say in Hong Kong as did Mallesons, Stephen and Jacques several years ago, and follow clients around a region or create alliances in various countries is subject to debate. Certainly, the costs of setting up independent offices in several locations can be resource depleting and the lack of people on the ground who can act responsively in certain countries can cause a firm to lose clients who may feel other law firms are better positioned to meet their needs. However, various forms of alliances can be problematic and costly in their own right. A firm can look to join the many law alliances around the region such as Lex Mundi but often times these alliances are very mature and spaces for joining are few and far between. Australian firm Clayton Utz is part of the Lex Mundi alliance whilst Middletons is part of TerraLex. Problems in such alliances involve asymmetry in client referrals, differing objectives, and knowledge leakage.

If Australian firms want to access inbound and outbound transactional work in places such as India or China, they have little choice but to form some sort of alliance if they want to offer local law practice and expertise to their clients since foreign firms still cannot practice local law in China or hire Chinese lawyers. India is even more restrictive and the president of the Indian Law Society recently commented that the Indian legal market should never be opened. However, a number of international law firms have created informal alliances with Indian firms (i.e. Clifford Chance and AZB & Partners) whereby they can share client referrals etc. In some cases law firms have little choice if they want to keep certain clients as the Indian economy develops and investment in the country increases. Additionally, as the case of Rio Tinto highlights (they off loaded 20% of their legal work from the UK to India to save US\$20m on their yearly US\$100m bill), some law firms will need to appease their clients and say 'hey its OK, we will support you in India and the decision to move some of your legal spending there', even if they don't mean it!

Having said all that, strategic alliances (SA) are not easy to develop. Firstly, it is somewhat difficult to assess the quality of law firms in emerging markets since there is a lack of objective and reliable data to base your decisions and the ILSAC states in its report that having access to the best legal minds in a specific locale is one of the major

benefits of SA. In China there are over 12,500 law firms with 130,000 licensed Chinese lawyers, how many would be truly competitive on an international basis? Secondly, a Bloomberg report states that there are only a handful of world class law firms in India and they are being inundated with SA offers, how can the small or mid sized firm hope to beat out their large counterparts in this area? Thirdly, full integration in the case of a joint venture is very hard to achieve between partners of disparate size and profits per equity partner (PEP), not to mention the cultural issues in firm integration.

Aside from full scale joint ventures (assuming the country regulations allow it), there are a number of other SA forms (see figure below). We don't tend to see many consortiums or licensing agreements involving law firms, however, according to the Wall Street Journal, one US firm McDermott, licensed its name to a Chinese law firm (Yuen Da) for a fee and presumably to claim it has a office on the ground in China. SA are the most common form of arrangement between law firms yet their use is surrounded by failure and disillusionment.



**Fig.1 Collaboration forms for the Law Firm**

(Source: Sawhney, R. (2009) Marketing Professional Services in Asia, Lexis Nexis, Singapore).

Research suggests up to 50% of alliances fail. In an article published in the MIT Sloan Management Review (2008), Bettina Buchel highlights a number of minefields that can impair alliance performance. These include unclear partner roles, unequal sharing of risks and benefits, not being prepared for the inevitable crisis, and no formal exist mechanisms.

Similarly, Patricia Anslinger and Justin Jenk (consultants at Accenture) suggest six key factors to enhancing alliance success chances:

- (1) develop clear, common objectives and definition of success;
- (2) ensure proper alliance form;
- (3) determine appropriate governance model with clear decision-making;
- (4) anticipate the most likely conflicts;
- (5) plan for evolution; and
- (6) establish clear metrics to track and measure success.

These are all useful guides but there is another hurdle for Australian firms seeking out alliances in the Asian region: culture. National cultural characteristics can have a major impact on alliance success because it is the individual interactions between the players that determine the quality of such alliances. For example, research conducted by Yadong Luo (*Administrative Science Quarterly*, 2001) shows that attachment between parties is impeded by cultural distance. Unfortunately, Australia is a highly individualistic society (second only to the US, may explain why Australian firms prefer the hub and spokes pattern) whereas most Asian societies are collectivist. This means that the different values given by each party in terms of relationship building and sharing of information is rooted in varying perspectives. In other words, Australian firms are likely to look at the alliance from a transaction basis (time and costs) whereas Asian firms are likely to look at it from a resource basis (building capability). This can cause fundamental conflicts as each party expects something different from the other.

So, aside from taking into account the normal factors described above when forming an alliance, one must consider the cultural variables. If you assign people from either firm to regularly interact it might be worthwhile looking at choosing people who are from similar national cultural backgrounds. If the alliance is closer, or involves equity, then the firm leaders and their goals will have a major impact on the outcomes, and hence finding partners with compatible goals and beliefs becomes even more important.

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