Legal Considerations

World Trade Practices
Chapter 12

Fundamental Issues
- Key legal issues
  - Legal systems
  - U.S. Legal considerations
  - Foreign law
  - Contract law

Legal Systems
- Common
  - Based on custom, precedent and tradition
  - Court system needed for validation
- Civil
  - Detailed laws by government
  - Set codes
  - Court system does not review
- Theocratic
  - Based on religious principles
U.S. Legal Considerations

- Foreign Corrupt Practices Act
- Grease Payments
- U.S. Embargoes
- Sanctions Against US
- Export Controls
- Antitrust Laws
  - The Sherman Antitrust Act
  - Federal Trade Commission Act
- Product liability
  - No contingency payment programs
  - Loser pays fees of both parties

US Economic Sanctions

The Case of Cuba

Information as presented by Hildy Teegen

Unilateral trade sanctions on Cuba

- 40 years - since 1964
- Soviet Support Era - traded sugar for oil
- 1990 Soviet support ended
  - 1990 to 1994 "Special Period"
  - 1996 to present - Recovery?
    - Some opportunitee liberalization
- Largest influx of capital is from relatives living in Miami sending money back to Cuban families

Hildy Teegen
Trade History

- 50% of all Soviet aid supported Cuba
- Trade on bland terms
  - Sugar for oil
  - Strict quotas
- Second experience with dependence on one trading partner
  - When Soviet Union fell apart, Castro realized the need to diversify trade

History

- 1959 overthrow of Batista
- 1986 quit making payments on debt
  - So unable to get credit
- 1992 Cuban Democracy Act (US)
  - Put on many strict restrictions
- 1996 Helms-Burton act
  - Many aspects in violation of WTO and International Law
    - Right to sue companies using assets confiscated by Castro’s regime

Impacts for Cuba

- Negatives
  - Negative impact on investment
  - Higher costs of trade & consumption
  - Limits to "best use" of resources
- Positives
  - Scapegoat for failed domestic policy
  - Attraction of remittances from family
    - $1 billion per year
Impacts for US

- Negative
  - Market Lock-out
  - Subsidiary Fire Sales
  - Lost Global Leadership??

- Positive
  - Avoidance of Bad Loans

Impacts for Third Party Countries

- Serious implications for Caribbean Basin nations due to similarities to Cuba loose transactions
- Trade Divisions
  - Canada and others who have built trade there since the 1960's
- Investor Nations
  - Get first mover advantage in tourism and agriculture
- Exile Community Linkages
  - Venezuela
  - Spain

Foreign Legal Considerations

- Intellectual Property Rights
  - Trade alliances make easier registration
- Patents
  - The invention itself
- Trademarks
  - The word, phrase or symbols that specifically identify a product or service
- Copyrights
  - Refer to artistic or literary work
  - Jingles
  - Advertising
International Contracts

- Contract and Negotiation
  - Refer back to negotiation discussed in chapter 8

- Guidelines
  - Definitions
  - Exclusive vs. nonexclusive
  - Term of agreement
  - Technical information
  - Duties of distributor
  - Duties of manufacturer/service provider
  - Termination
  - Dispute resolution provision
  - Governing law