

Staffing Global Legal Departments

Building a Core Team for International Operations

By Kenneth E. Bunge

In the past decade, general counsel in corporate America increasingly have faced new and complex legal issues arising from the accelerating growth of global business, including growth through acquisitions of foreign entities, joint ventures in developing markets and offshoring of manufacturing and service operations. These business dynamics, coupled with the significant developments in commercial laws and regulatory schemes and ever increasing enforcement activity around the world, have given general counsel much to consider in how they provide effective legal services to their business clients around the world.

Fifteen years ago, very few US companies had significant in-house lawyers in their international operations. Even fewer staffed with local nationals. Typically, an expatriate US lawyer might be assigned to oversee regional operations or be assigned to the company representative office to provide legal services for that function.

The goal of this article is to provide practical guidance and some proven suggestions to general counsel and their managing lawyers to consider in meeting the challenges of providing competent and responsive legal services within their international operations.

Building an International Legal Team – A Long Term Strategy

There are three general approaches to establishing a local legal function outside the US:

- staff with expatriate US lawyers
- use dedicated outside counsel
- hire local lawyers

Which approach you choose depends to a large extent on the organizational structure of the legal department.

If you are starting from scratch, an experienced expat lawyer with sound judgment and

some international experience could meet initial needs and perform an assessment of long-term staffing requirements. Permanent staffing with expats or outside counsel, however, may not be the most effective approach. Why? Aside from cost issues, turnover may lead to lack of continuity or gaps in service. Also, cultural and language differences may increase underlying legal risks.

Assuming that US involvement in a global economy is only going to grow and that the need for responsive and effective legal services will be critical, the recommended long-term strategy is to organize international legal departments with fully competent locally-admitted lawyers. These individuals should have the education, company experience, practice skills and cultural emersion closely akin to US lawyer counterparts.

To achieve this, you should consider a recruiting program to identify talented non-US lawyers with legal experience in the particular jurisdiction and legal training acquired in the US. Many US law schools have international LLM programs and the number of foreign lawyers obtaining degrees has been growing steadily over the years. While many of these student-lawyers have the goal of joining or forming an affiliation with large global law firms, more and more of them are coming into these programs with significant in-house experience and a strong interest in pursuing legal careers with US multinational corporations.

Once these student-lawyers receive their degrees, most are eligible for a period up to one year of “practical training” in the US. With the proper work authorization documentation, they may be hired as interns or temporary employees, depending on the company’s human resources department policies.

International student-lawyers should be given extensive exposure to the matters and issues the department’s other lawyers are working on.

Equally important, they should be allowed to work directly with internal clients as much as possible. They should be assigned to one supervisor, who also serves as a mentor. The supervisor/mentor must understand that it is his or her responsibility to control the nature and flow of work to give the individual a deep and rich experience. If the program is managed properly, you will have the opportunity to closely evaluate the candidate to determine if there is a proper fit.

At some point, these lawyers can return to their original country of practice as in-house counsel. If the training experience as described above is successful, they should be equipped with the competencies and capabilities that clearly distinguish them from local lawyers you might have hired otherwise. They will have a solid foundation in US law and have gained practical experience in the US. They will have formed solid relationships with your US-based lawyers. They will know and understand company policies and procedures and the reasons they exist. They will be able to put into

context for their clients the extraterritorial impact of US law and the relevance of the company's ethics and compliance programs. Perhaps most importantly, they will have a firm understanding of who the client is and the ultimate responsibility of the in-house lawyer to that client. Finally, from a cost perspective, these lawyers will be able to handle more matters that otherwise might have been sent to local outside counsel to resolve.

Communicate Early, Often and Intensely

Once you have successfully established an international legal department, it is critical that senior legal management stay in continuing contact with the lawyers in these operations. It is an easy principle for everyone to agree to, but in reality much harder to follow in the daily crush of matters general counsel face.

All lawyers should have full access to matter and document management systems. Also, a robust knowledge management data base should be available and kept current. Further, a regular appraisal process

should be in place including client feedback tools.

Above and beyond all of this, it is critical to maintain some face-to-face contact. In this regard, planning is important. Periodically, general counsel and other key members of the legal management team should travel to the international locations to meet with local counsel and hear from them. Optimally, these meetings should be of sufficient length to allow for significant interaction. It is also important that legal management make the effort to meet with the business management of the local operation to demonstrate their strong interest in the relationships of the local lawyers with their clients. ♦

Kenneth Bunge held the position of managing lawyer at United Technologies Corporation's headquarters before his retirement last year. For 15 years he had direct responsibility for recruiting and staffing of its US and international legal functions. He also had primary responsibility for career management of the company's lawyers around the world. Ken now advises on all aspects of career development for in-house lawyers and paralegals.