Trade successfully with Poland

Ten important principles

10 rules that can help make your sales to Polish buyers successful

> In so many things, growth comes from adversity
> Michael Huffington, US politician

Huffington's observation is certainly true of Poland, whose transformation from wartime devastation and subsequent communist rule to political stability and economic prosperity is truly remarkable. Notably, and helped in large part by its robust banking system, it was the only EU country to escape recession in 2009, when its GDP rose 1.8% while the EU's overall economy shrank by over 4%.

Its strategic location at the heart of Europe, although something of a curse in earlier war-torn times, now makes it an ideal destination for many of its trading partners. And the progress that Poland has made in opening its doors to international trade is echoed in its rapid rise in the World Bank's 'Ease of doing business' table, where it now stands at number 55 of the 185 markets assessed.

Poland is the largest of the recent intake of EU member states, with a 38 million-strong consumer market: a market that continues to buck the downward trend of much of the rest of Europe. Coupled with planned spending on much needed infrastructure, environmental and technology projects, this adds up to real opportunities for foreign suppliers, provided that they approach this compelling market in the right way.

The following principles are designed to help.

1. Get a foothold in the market

Having a physical presence in Poland will help get your goods and services into the marketplace. That presence could take the form of a distributor who can clear your goods through customs, make them available on the market and if necessary provide technical support, or a representative office to undertake marketing and other non-transactional activities on your behalf. Generally, a representative office will be easier to set up than a branch office or subsidiary, but the types of business it is permitted to engage in are limited, whereas a branch or subsidiary can carry out business operations i.e. sales.

Franchising is growing in popularity in Poland, with around 1000 franchises operating in the country, and joint ventures are also an option worth investigating. Indeed, Polish law allows a range of business types to be established: including various kinds of partnerships and companies. For more information, visit the website of the Polish Information and Foreign Investment Agency - www.paiz.gov.pl.

Whichever form of representation is chosen, the agreement must accord with European Union and national laws. These will set minimum standards of protection for self-employed agents who sell on a supplier's behalf: establishing rights and obligations, agent's remuneration, and the conditions that must be met when terminating an agreement.

2. Share in the benefits of Poland's Special Economic Zones

Poland's Special Economic Zones (SEZs) - currently 14 in total - are scheduled to remain in place until 2026. They have undoubtedly brought real benefits to the country, as companies operating in SEZs receive significant tax incentives, attracting major investment and encouraging many foreign businesses to set up branches there. The positive impact on Poland's economy has been considerable: not least by reducing the unemployment rate and increasing GDP per capita.

There is no reason why foreign exporters shouldn't share in those benefits by partnering with business based in these zones: for instance, by outsourcing elements of production to an SEZ. Indeed, Poland has become a leading hub for outsourcing, third only to China and India, with its 100,000 outsourcing jobs growing by around 20% a year: helped no doubt by its proven resilience to the crises affecting many other European markets.

> "a leading hub for outsourcing"

3. Be involved in Poland's infrastructure projects

Anyone who has travelled across Poland by road or rail in earlier decades can verify that its infrastructure has in the past been in need of improvement. But change is now underway. Once Poland joined the EU it received a huge injection of EU funds, under the European Cohesion Policy, as a priority for improvement of its infrastructure and, of all the member states, it is now the major beneficiary of that funding. This reflects the confidence that the EU has in Poland's potential.

Much of the EU funding has been targeted on new roads, airports and the modernisation of rural areas, and future investment will be earmarked for scientific research, motorways, rail and public transport, and broadband internet services.

The Polish construction market is very open to bids from overseas contractors. However, while many foreign companies do bid for Poland's infrastructure projects, care needs to be taken not to become so competitive on price that no cushion is left against the very real possibility of rising material or labour costs: as some have found to their peril over recent years.

Other kinds of businesses that can benefit from Poland's infrastructure investment include those engaged in renewable energy – especially wind farm projects and shale gas exploration, waste management and power generation. And, as funds are pumped into Poland's infrastructure, opportunities arise for associated industries such as airport equipment and services, and information technology.

4. Make sure the price is right

Despite Poland's stable economy and well capitalised banking system, in business-to-business transactions firms still often find it hard to obtain bank finance and therefore self-financing of purchases is common practice. That means that price is a determining factor, often coupled with the credit period that a supplier is prepared to offer: once goods and services have been delivered on credit terms, the transaction effectively becomes a financing exercise, not just a sale.

In the case of business-to-consumer sales, the value that consumers place on a seller's products – and their ability to pay – will of course be determined by disposable household income after tax.

In Poland, the average net disposable household income is around €11,500, compared to averages nearer to €21,000 across Western Europe, although, as everywhere, this masks considerable disparity of net disposable income across the population: over €22,000 for the top 20% of Polish households and €4,610 for the bottom 20%.

Demand for foreign goods is led by electronics and white goods, used cars and textiles, and in the medium term, as the economy continues to flourish, the market for luxury goods will grow.

> "a financing exercise, not just a sale"

5. Sell online

Poland may still be classed as an 'emerging' market, but don't let that fool you into thinking that it lags behind its more established neighbours in the use of online shopping. And it's no doubt also the case that, as Poland's economic growth slowed in 2012, with GDP growth of just over 2% compared to the previous year's 4.3%, consumers are turning to online shopping as a way to save time and money. As a result, e-commerce in Poland is growing faster – admittedly from a low starting point - than in any other EU countries.

According to a study by the Boston Consulting Group, 75% of Polish households are expected to have internet access by 2015. Foreign companies are already seizing the opportunity: household equipment, electronics, books, computer games and cosmetics are widely bought online. Foreign supermarket chains are getting in on the act too, with Polish consumers now able to buy their foodstuffs online and collect them from drive-in locations.

6. Remember – the customer is always right…

… and, even if as a foreign supplier you may sometimes disagree, you need to be aware that, since Poland joined the EU, its consumer rights – and their enforcement - have been greatly strengthened and cover promotional practices, advertising, personal data protection and, most importantly, safety. Poland's safety laws place a clear obligation on suppliers and producers to meet the required standards of labelling, research and consumer information.

For more information, suppliers should seek the advice of Poland's Office of Competition and Consumer Protection (www.uokik.gov.pl). Along with the more stringent safeguarding of their rights, Polish consumers are becoming ever more aware of those rights and of their ability to sue suppliers and producers for any breach. UOKIK will also be able to advise on issues such as controls on unfair competition.

> consumer rights have been strengthened

7. Not everything can be freely imported

As a member of the EU, Poland applies the EU's customs procedures and Community Customs Codes. Generally speaking, goods imported from other EU countries require no specific documentation beyond a commercial invoice, but imports from countries outside the EU must be accompanied by a customs declaration, commercial invoice, bill of lading, packing list and, in some instances, a certificate of origin.

Some goods may need an import license, for instance foodstuffs, wine and spirits and textiles, some may be subject to quotas, and some may be banned altogether. Again, goods from other EU countries are generally free of import controls, except for products that threaten national security such as explosives and firearms. Controls also apply to some agricultural products.

Certain goods imported directly from non-EU countries require an import license: including iron and steel, chemical products, textiles and agricultural products. As with many other countries, Poland's Customs Authority produces a 'negative list' of products that are banned from importation.

8. Understand the business culture

For Western European businesses seeking to break into the Polish market, the business culture may be little different from that of their home market.

Polish business people prefer to negotiate face to face, and relationship building is a prerequisite. Foreign businesses need to gain the trust of their Polish counterpart before a deal can be struck and therefore meetings may begin with what appears to be inconsequential 'small talk': this is all part of the process of building that relationship.

Despite the 'small talk', business meetings will begin quite formally, with the exchange of business cards. Your Polish host will have made considerable preparation for the meeting and will expect you to have done likewise. Arrive on time and be prepared to stick rigidly to the agenda. At first it is usual to address your hosts as Mr, Mrs etc, followed by their surname.

After a while your host may indicate that first names may be used, but don't worry if this doesn't happen. Poles tend to be undemonstrative in meetings, but this shouldn't deter you: the lack of body language doesn't mean that they're not interested in what you say.

And one final piece of advice: don't refer to Poles as Eastern Europeans. They are most definitely Central Europeans.

9. Choose suitable payment security…

... but don't make yourself uncompetitive. There are several ways to secure your payment with a Polish customer, although some can be time consuming and expensive and may deter potential customers if other suppliers are prepared to offer less secured terms of payment.

These forms of security include sureties (poręczenie) from the customer's associate, parent company or other guarantor perceived by the vendor to be trustworthy; bank guarantees (gwarancja bankowa); insurance company guarantees (gwaranca ubezpieczeniowa) and registered pledges (zastaw rejestrowy). Especially in the case of business-to-business transactions, it is quite common to use a promissory note (weksel) – in particular a blank promissory note (weksel in blanco) – or an assignment of receivables (przelew wierzytelności).

Be warned: in the case of a poręczenie, enforceability is subject to validity of the underlying supply agreement, so it is vital to ensure that that agreement is legally compliant. And a gwarancja bankowa can be an expensive option, suitable only for high value contracts. A zastaw rejestrowy can be administratively burdensome but may be appropriate when the goods sold are easily traceable, such as heavy machinery.

A Retention of Title clause in the sales contract can provide security for moveable assets, especially if the customer becomes insolvent, but for the clause to be effective the seller must show that the buyer has countersigned the clause: the inclusion of such a clause in the general terms of the contract will not itself be enough.

Whatever form of security is chosen, it should be clearly defined in the supply agreement so that there is no doubt about the payment obligations of the parties involved.

> "retention of title can provide security"

10. Play safe – protect your sales

Even when every practicable measure has been taken to ensure the successful conclusion of the sale, if goods and services are supplied on credit terms the risk of non-payment will always remain: whether as the result of the buyer's inability to pay or some external factor that prevents completion of the sale.

It is therefore wise to protect credit sales with credit insurance of the kind offered by Atradius. 'Insurance' is certainly an understatement in this respect, as a reputable credit insurer will provide much more. The insurer will vet your customer's status in advance of the sale to ensure their financial viability and, in the event of non-payment, seek to recover the debt - preferably through amicable out-of-court means to avoid lengthy and costly court action. That 'amicable' approach can also save a valuable business relationship from being marred by a single debt.

Credit insurance is the surest way to gain insight

"There are many reasons why Poland should figure on foreign businesses' radar" says Atradius' country manager for Poland, Pawel Szczepankowski, "but, as in any market, it's vital to check and monitor the credit worthiness of your Polish customers."

The Polish market is dominated by small and medium sized enterprises, many of which do not publish their financial results despite the legal obligation to do so. The scandal of Amber Gold shows only too well what can happen: it continued to trade despite being blacklisted by Poland's Financial Supervision Authority, and collapsed in 2012 owing small investors an estimated 163 million zloty (€40 million).

"Using the services of a credit insurer like Atradius is the surest way to gain insight into your customer's financial strength", explains Szczepankowski. "We can access financial information that may not be readily available to the vendor and this, combined with our underwriting expertise, means that we can give our clients an accurate assessment of their customer."

managing risk, enabling trade

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