

EXPANSION OF FOREIGN TRADE IN
THE NINTH FEDERAL RESERVE DISTRICT

Talk by

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In this talk today I hope to outline a few of the major parameters of international trade as it relates to the Ninth Federal Reserve District, and then tie its development in some way to your professional responsibility as lawyers--an ambitious assignment indeed. At the risk of appearing parochial, much of the background of this talk has had to be rooted in the Ninth Federal Reserve District, an area of the United States known as the Upper Midwest comprising the states of Montana, North Dakota, South Dakota, Minnesota, Upper Wisconsin and the Upper Peninsula of Michigan. The Federal Reserve Bank of Minneapolis, as one of the twelve reserve banks that make up our central banking system has as one of its responsibilities the accumulation and distribution of regional economic intelligence. The measurement and encouragement of international trade within the region is important, but regional lines in North America are seldom sharply defined economic lines even at national borders. That the prairie provinces and the western states of the Ninth Federal Reserve District have many more similarities than differences in their economies need not be belabored by me, so the research findings I will be quoting may be useful.

Let me start this presentation with certain propositions:

(1) At least some of the limits of the economic environment within which domestic business decisions must be made are set by international considerations. Obviously these international considerations apply with much greater force to international business decisions, although domestic considerations such as national policy, credit flows, and supply and demand factors of domestic markets can be determinative.

(2) Business decisions, like legal advice, have to be relevant to the economic environment in which those decisions will be operative.

(3) The foreign market does not exist just for the large corporations of our countries; there are many small concerns engaged in international trade within the Ninth Federal Reserve District; there are many more that could be.

The name of the game, its rules, and the nature of the play condition the players responses. A truism? Perhaps, but the enthusiasm with which it is ignored warrants elaboration of the point. Logic and precedent, however skillfully reasoned out of the context of a man's knowledge, can lead him into grievous error when applied to decision-making outside his experience, as lawyers well know. Businessmen in the heartland of the United States frequently shy away from international trade because of the idea that it is a mysterious business limited to the esoteric few. It is different in some ways--there are different terms, but they can be learned; there are different procedures, these also can be learned. It certainly is not necessary to be a linguist, English is becoming the international language.

Many products manufactured in this country for domestic markets only have a potential market overseas. Only five percent of the 300,000 manufacturing firms in our country export anything to foreign countries and only four percent of the United States GNP goes overseas contrasted with such proportions as 10 to 40 percent for many of the industrial countries in the western world.

While our international trade is not as high a percentage as it is in other countries, it is an exceedingly important factor in our economy as it is in yours. Not only is it a point of official interest because of the balance of payments implications, but it also has an influence on our domestic monetary climate. As United States industry has gone around the world it has been accompanied by United States banking. There exists today a world money market and the condition of this market influences interest rates and credit

availability in the entire United States banking system. The plight of the British pound has been one of the constraints on United States monetary policy for sometime and will continue to be so; it therefore affects credit availability and interest rates to some degree in every community of the United States. National trade agreements and national security both of which reflect points of national interest influence the development of international trade. Some idea of these national and international forces is a prerequisite to doing business today.

In an immediate sense, though, entry into international trade means an expansion of markets which contributes to the economic growth of the region. For this reason, the Upper Midwest Research & Development Council, an organization of business leaders and academicians in the Ninth Federal Reserve District, has made the development of international trade in the region a major program in their current series. This logically had to start with research into the present volume of international trade originating within the District. The economist in charge of the program is Oscar F. Litterer, who is on loan from the Federal Reserve Bank of Minneapolis, and most of the following statistical data are drawn from his preliminary report. I have included data for Minnesota, Montana, and the Dakotas only for it is these states that have the greatest similarity to their Canadian counterparts.

His analysis separates foreign trade in the District into two categories: agriculture and industrial products. As to the former, agricultural products, especially grains, have been the principal exports from the Ninth District states. The importance of agricultural product exports to the farm economies of the District states is revealed by the proportion of cash farm income that is traced to exports. In the three crop years studied, exports in the four states wholly in the Ninth District contributed 13 percent in 1961 and then rose to 19 and 18 percent respectively in 1964

and 1966. In Montana and North Dakota exports contributed between one-fourth and one-third of the farm receipts.

Another measure of the importance of farm product exports is the employment involved in the production of these products. In 1963 it was estimated that exports accounted for nearly 13 percent of the total farm employment in the four states examined. The proportion of farm employment attributable to the production of products exported was as high as 18 percent in North Dakota and 24 percent in Montana.

Although a substantial part of the exports were stimulated by the United States Government Food for Peace Program, commercial sales increased as well. During the time agricultural product exports skyrocketed under the Food for Peace Program, gains were made in commercial sales. For products with domestic prices maintained above world prices by government support programs, American exporters receive subsidy payments in-cash or in-kind by purchases in commercial markets or through sales from government stocks at less than domestic prices to cover the differential between domestic and world prices. The commercial exports of products from the four District states increased by 14 percent, from \$375 million in crop year 1964 to \$427 million in crop year 1966. The states of Michigan and Wisconsin also had significant increases concentrated in the export of feed grains and dairy products.

What does the future hold? It seems incontestable that agricultural production in the Ninth District states has been held down by government programs in an effort to preserve tolerable relationships among the supply, demand, and price factors--relationships in a state of chronic disequilibrium because the advances in technology have expanded output faster than the growth in commercial markets. The expansion in United States domestic demand for food and fiber is limited largely to the growth in population or shifts in tastes; any significant expansion in agricultural production, therefore, depends upon the opening of new export markets.

Trade barriers are the principal factors limiting the growth of international trade in agricultural products. These are some of the major operating constraints referred to earlier within which the businessman must operate. A prerequisite to success in future trade negotiations is the return to world prices of agricultural products, but I suspect the area of agricultural commodities is one of the areas in which our negotiators scored less well than they did in other parts of the Kennedy Round.

This country already has shifted its agricultural program in this direction; it has moved away from the high price support maintained during the fifties. Price support levels are now closer to market prices with direct payments being made to farmers to raise their incomes closer to those in urban centers. Subsidy payments are currently made to producers of wheat, feed grains, upland cotton and wool.

The National Advisory Commission on Food and Fiber has recommended an even further shift in the nation's agricultural policy to establish a market-oriented agriculture. The Commission believes that the free functioning of markets is the best mechanism for adjusting farm production to the domestic and foreign demand for food and fiber. Such a policy would not interfere with the long-term adjustment in United States agriculture: a greater use of technology and capital on farms and the movement of farm labor to better paying urban jobs and the retirement of marginal land to better uses, such as recreation. The Commission recommended that price supports even be set below average world prices for principal agricultural products. Such a level of price supports would permit domestic markets to function freely and would encourage United States farm exports. Should prices fall below levels that provide farm incomes commensurate to those in urban centers direct payments to farmers would be required. As competitive prices are restored on United States agricultural

products, other nations may be encouraged to adopt similar policies which would facilitate future trade negotiations.

What about manufactured products?

Manufacturers in the Ninth District states, because they are in an inland region, are not as export oriented as others who are located close to Atlantic or Pacific coasts or to the Gulf of Mexico. However, in recent years interest in an export business has spread enough so the volume of exports from this region has grown at a significantly faster rate than in the nation as a whole.

United States exports of manufactured products increased by 13 percent in the three years from 1960 to 1963; during this period, exports from the four states increased by 36 percent, from \$160.9 million to \$219.5 million. Of their exports, all but a small fraction came from Minnesota: 91 percent in 1960 and 88 percent in 1963. While the volume of exports from the other two states of the District, Wisconsin and Michigan, was larger than from the four, the rate of growth was less between 1960 and 1963--18 percent in Michigan and 30 percent in Wisconsin. This trend indicates the growing interest in an export business in the less industrialized states.

While much of this involved food and kindred products (one-fourth of the total contrasted with 10 percent for the nation), Ninth District manufactured exports have grown rapidly. In the four states these exports increased by 42 percent from \$121.0 million in 1960 to \$171.3 million in 1963. Although a wide range of products are manufactured for export in the District, the largest portion of these falls into two categories: (1) nonelectrical machinery (principally farm and construction equipment); and (2) instruments (primarily electronic equipment). Other products exported in substantial volume are chemical and allied products, electrical machinery, paper and allied products, and lumber and wood products.

So much for the dimension of export business in the Ninth District; dimensions which, I suspect, apply with some degree of correspondence to the prairie provinces. How does this relate to lawyers? It seems to me these are the ways: First of all, the environment is only partly established by the market place. National interest on both ends of international trade are reflected in laws and regulations of varying degrees of intricacy. Secondly, the credit mechanisms used are sufficiently different--and in some of their forms, more favorable--from conventional domestic patterns to require special attention of counsel. To the extent that he can provide expertise on the almost infinite variety of national and international laws, regulations, treaty commitments, trade programs and credit arrangements--both public and private--that influence international business transactions, he can assist his client in meeting and solving many complexities found in the intercourse of trade over national boundaries.

As an example, consider the compacts between nations designed to minimize the barriers to free movement of goods in international trade, barriers in the form of quotas and tariffs. The major international compact, the General Agreement on Tariffs and Trade, was designed as a forum to achieve a multilateral consensus among many nations toward this goal. It is concerned with tariff schedules affecting thousands of items covering a substantial part of foreign trade. These schedules are arrived at after rounds of negotiated tariff concessions. A knowledge of the current tariff status of an export item, or its possible status in stages of negotiation could have an important bearing on management decisions as to the utilization of certain foreign markets with respect to such a product. But it does not operate in a domestic vacuum. Consideration has to be given to domestic laws which may be compatible with or nullify benefits derived from international compact. The concessions both

received and given under the authority of the United States Trade Expansion Act of 1962 are of vital importance to the exporter.

There are other pieces of legislation that may have the effect of curbing or nullifying any benefits ostensibly granted. Export control legislation designed to curb exports of certain material for purposes of national defense, or for other reasons, as well as the variety of domestic self protection statutes designed to prevent undue injury to local industries, must be viewed and analyzed with respect to their effect on a foreign marketing program, and to this problem the lawyer should be addressed.

An important part of the management decision rests in the conclusions made with respect to the form of marketing mechanism. For example, businessmen who face unduly harsh import restrictions may explore the possibility of entering special types of licensing or franchise agreements with foreign nationals. On the other hand, under different conditions, the establishment of foreign branches or subsidiaries may provide the best marketing vehicle. My point is that when he crosses national boundaries, the businessman is faced with foreign laws and foreign attitudes which may throw a completely different light on this type of decision. Government attitudes, both local and foreign, are vital and may by analysis reveal possible threats of profit repatriation, nationalization or a climate of unfavorable exchange controls. Don't worry about being all things to your client; even where you cannot provide complete answers to these difficult considerations, you can act as an effective liaison and line of communication with those that may. The Department of Commerce, correspondent banks, international cargo carriers are typical sources of help. Certain of the major corporations of the region, like the Pillsbury Company, can be enormously helpful by piggybacking the products of the small manufacturer in their foreign marketing organizations.

The problems of credit and finance in the field of foreign trade are, in the most part, of a technical and specialized nature and it is here the banker specialist plays a big role. But counsel can also contribute in an advisory capacity. A general knowledge of the spectrum of financing alternatives can be helpful in deciding where and how to seek financing assistance. Information about financing patterns can be secured through the larger banks and the Department of Commerce. The American Bankers Association has published an excellent primer on the subject.

How is the client to be protected in the foreign jurisdiction where differences in credit practices and legal procedures are complicated by political instability? Insurance to cover both the credit risk and the political risk has devised. When, why, and how much are decisions to be made on a deal by deal basis, and are beyond the scope of this talk. The Export-Import Bank and a private insurance consortium are both available. Sufficient perhaps to say, there have been developed mechanisms through which payments between countries are made, with as little risk as possible.

A difficult and imprecise area is that concerned with problems arising out of laws directly and indirectly affecting trade practices, especially those of an antitrust nature. These laws may have an important impact on the success or failure of a particular foreign marketing endeavor. It must be recognized that many countries have laws designed to encourage competition. Therefore, an exporter must consider whether his proposed marketing arrangements will pass muster. In some case, the arrangements in question may be prohibited absolutely and in some, registration may be necessary as a step toward a subsequent administrative decision approving or disapproving the practice. The advice and conclusions of a lawyer in this respect can be crucial. The ability to market a product in a certain manner or, in some cases, at all, can rest

on its compatibility with antitrust laws and those governing trade practices. Incompatibility can be disastrous.

It is a temptation in a talk of this kind to a professional audience to lapse into excessive detail--a temptation based on the usually erroneous assumption that you want to know that much about the subject at this sitting. Like the story you all know in some form about the little boy who insisted on querying his mother instead of his father about the function of the carburetor because he did not want to know as much about the carburetor as his father would tell him, many of you may have learned as much about the expansion of foreign trade in the Ninth Federal Reserve District as you care to know for today at any rate.

If you carry no other points away with you than these, the time will have been well spent by both of us:

(1) The expansion of foreign trade is one of those major intersections of interest for both the public and private sectors--in fact, there are few such instances where the potential for public benefit and private profit is present in such generous measure.

(2) Entry into foreign markets is not limited to the very large national corporations. Small businesses can and have found new markets outside their own country to be profitable.

(3) Lawyers can perform significant roles in the development of these markets for their clients. It is not all that mysterious. The literature and the public and private mechanisms already existing make it possible for the lawyer to serve a catalytic role without having to become totally committed in his practice to this one area.

In summary, then, it can be exciting, financially rewarding, and a furtherance of the public interest--sufficient reasons I hope to have triggered your curiosity today.