I. Why Int’l M&A is different?
   • For the large part domestic and international deals are not that different.
   • There are same issues, covenants about business, IP issues, and antitrust issues
   • 80% the same
   • 20% different:
     o tax and structuring issues
     o you need an international tax expert (lawyer)
       ▪ you’re dealing with multiple tax jurisdictions assuming a US firm is acquiring a firm outside of US
       ▪ when you do int’l M&A you do it with several foreign subsidiaries
       ▪ John Kerry is trying to eliminate companies from going off shore
       ▪ High profit in low tax jurisdiction
   • The Netherlands is a popular structure for companies to adopt since it is easier to do business there
   • Multinational acquisitions: there is not a separate body of law that governs int’l corporate law/tax
   • You are always dealing with local law.
   • In Delaware it’s easy to set up a corporation
   • In Germany, it’s not enough to have a signed agreement since it only holds when you read it to a local magistrate.
   • Many countries don’t have corporate law; but some have more regulations that US
   • Holland has a strict corporate law
   • Delaware has a well established corporate system.
   • In a lot of countries you need to have a local representative there that acts as a local executive.

Antitrust/competition law
   • As a practical matter, foreign countries aren’t into antitrust
   • In Europe, there is one head that takes care of all the antitrust rulings for all of the countries.
IP: these days this is the key reason why people are buying companies
   o Trade secrets
   o Software
   o Brands
   o Chemical compounds
The degree of IP protection is not the same around the world
Therefore, get appropriate information before making a decision
China has weak IP for software/media.
Some countries have foreign ownership limitations (less so these days)
   o Currency controls
Around the world there are more foreign corrupt practices.

Lawyers have:
   • rule of law: a broader depiction of corruption
America’s law is 99% reliable
   o Due process is not always the case around the world
other countries are more apt to put company-people in jail
In America you might just get a fine/sanction
Terminating distributors is more problematic overseas then in the US
   o US honors contracts
Labor issues: harder to change workforce rules overseas.

II. Int’l JVs (joint ventures)
   non-international reasons to do JVs:
   o a partnerships of some kind
   o strategic alliances/contractual
   o company who change their goals (ex. Millennium Pharmaceuticals)
   o Millennium developed a drug, and another party manufactures it, and another party markets it (strategic alliance)

JV
   • takes the strategic alliance one step further to pursue a project
   • a shared investment w/economic risk and return
   • everyone gets a return
   • Whether its worth doing this depends on the size, duration, liability issues, management issues.
   
There are dichotomies between local and federal government rules.
“Favored status” from being locally owned.
   o Easier to get gov’t contract
   o Easier to get tax breaks
In the US we have majority, minority, or 50/50
In terms of control over entity
   • each party has its own concerns
• The control mechanisms
  o Voting regulations
  o How many Board seats
  o Super-majority provisions
  o Selection of management
  o Types of return (preferred, etc.)
  o You want to prevent deadlocks

• deal with the ownership of the venture:
  o could be going into new country
  o switching industries
  o need another facility

  Tagalong: if majority wants to sell out, they have to take minority along (reciprocal of a drag)

III. Lawyering
• Initially historically, foreign lawyers are less involved with business deals (they tend to be gatekeepers)
• US lawyers find ways to work around the law.