JOINT VENTURES

WHY JOINT VENTURE?

1. HIGHER RETURN ON ASSETS THAN OTHERWISE
2. JOINT VENTURE HAS SOME ADVANTAGES OVER:
   - A. DOING IT YOURSELF
   - B. PURE LICENSING (IN OR OUT)
   - C. DOING NOTHING

A. POSSIBLE ADVANTAGES

1. LESS INVESTMENT THAN DOING IT YOURSELF
2. LESS MANAGEMENT TIME (MAY BE MORE ALSO)
3. ACCESS TO ABILITIES OF PARTNER
   - A. STRONG MARKET POSITION-BETTER THAN YOU CAN DEVELOP
   - B. GOOD TECHNOLOGY-BETTER THAN YOURS
   - C. MANAGEMENT SKILL
4. ENTER MARKETS NOT OTHERWISE AVAILABLE
5. FASTER EXPANSION THAN DOING IT YOURSELF
6. GAIN COOPERATION OF PARTNER RATHER THAN COMPETITION OF PARTNER

7. POSITIVE JOINT VENTURE RELATIONSHIP MAY ULTIMATELY RESULT IN MERGER OF PARTNERS

B. INVOLVEMENT AND INVESTMENT

1. MORE THAN LICENSING
2. LESS THAN DOING IT YOURSELF
3. JOINT VENTURE:
   A. PROFIT IN PROPORTION OF INTEREST
      (LESS THAN WHOLLY OWNED, MORE THAN LICENSING
      -BUT CONSIDER RETURN ON ASSETS)
   B. RISK OF LOSS
      (LESS THAN WHOLLY OWNED, MORE THAN LICENSING)

C. POSSIBLE DISADVANTAGES

1. LOSS OF CONTROL
2. SHARING RESPONSIBILITY
3. DIFFICULTIES IF MANAGEMENT OF ONE OR BOTH PARTNERS CHANGES
4. RISK OF LOCAL NATIONALIZATION (ALSO TRUE WITH FOREIGN SUBSIDIARIES)
5. MAY TAKE MORE MANAGEMENT TIME (MAY TAKE LESS ALSO)

II. JOINT VENTURES AND INTELLECTUAL PROPERTY

1. USE OF PROPRIETARY ASSETS IN ESTABLISHING JOINT VENTURES

A. PROPRIETARY ASSETS MAY SERVE AS PART OR ALL OF ONE PARTNER'S INITIAL CONTRIBUTION IN ESTABLISHING THE JOINT VENTURE

1. MAY BE ASSIGNED OR LICENSED TO JOINT VENTURE

A. DIFFICULTY IN RECOVERING PROPRIETARY ASSETS UPON DISSOLUTION OF JOINT VENTURE IF ASSIGNED OR EXCLUSIVELY LICENSED

B. JOINT VENTURE MAY BEAR COSTS IN OBTAINING, MAINTAINING AND ENFORCING PROPRIETARY RIGHTS

B. PROPRIETARY ASSETS MAY FORM BASIS FOR CONTINUING ROYALTY FROM JOINT VENTURE EITHER UNDER LICENSE, OR AS PART OF PAYMENT FOR ASSIGNMENT

C. IF LICENSE TO JOINT VENTURE IS RENEWABLE, CAN BE USED AS AN ELEMENT OF CONTROL OF JOINT VENTURE

D. IF IS THE USUAL DEMANDS ON A COMPANY'S INVESTMENT FUNDS, USE OF PROPRIETARY ASSETS IN RETURN FOR EQUITY IN ESTABLISHING JOINT VENTURE AND THEIR USE FOR CONTINUING ROYALTY RETURN PROVIDES

1. HIGHER RATE OF RETURN ON INVESTED FUNDS
2. MAY PERMIT FORMATION OF JOINT VENTURE WHERE ESTABLISHMENT OF WHOLLY-OWNED ENTERPRISE IS NOT POSSIBLE BECAUSE OF LACK OF FUNDS

E. PROPRIETARY ASSETS MAY BE ATTRACTIVE TO OTHER PARTNERS WHO MAY HAVE MANUFACTURING AND/OR MARKETING CAPABILITY AND WHO HAS A NEED FOR THE NEW PRODUCTS INCLUDED IN THE PROPRIETARY ASSETS

F. LICENSING OF CERTAIN PROPRIETARY ASSETS, WITH RETENTION OF OTHERS FOR LATER INCLUSION IN LICENSE IF JOINT VENTURE DOES WELL WITH INITIAL ASSETS, PROVIDES INCENTIVE FOR GOOD PERFORMANCE ON INITIAL ASSETS

G. TERRITORIAL LIMITATIONS IN LICENSE TO JOINT VENTURE MAY BE USED TO CONTROL ACTIVITIES OF JOINT VENTURE (BUT CONSIDER ANTI-TRUST PROBLEMS)

2. TRADEMARKS IN JOINT VENTURES
   A. TRADEMARKS MUST INCLUDE GOODWILL IF ASSIGNED
   B. IF TRADEMARKS ARE LICENSED, MUST BE PROVISION FOR AND ACTUAL CONTROL OF QUALITY TO AVOID LOSING TRADEMARKS
   C. TRADEMARKS LAST INDEFINITELY, IF PROPERLY HANDLED, AND THUS CAN PROVIDE BASIS FOR CONTINUATION OF ALL OR PART OF ROYALTY AFTER EXPIRATION OF PATENTS, OR AFTER KNOW-HOW LOSES ITS VALUE
3. KNOW-HOW IN JOINT VENTURES
   A. USUALLY LIMITED LIFE
   B. DISCLOSURE MAY DESTROY VALUE
   C. CONFIDENTIALITY IS IMPORTANT
   D. PROBLEMS IN SENDING KNOW-HOW OVERSEAS
      1. DEPARTMENT OF COMMERCE EXPORT REGULATIONS
      2. STATE DEPARTMENT MUNITIONS LIST
      3. KNOW-HOW CONTAINED IN PATENT APPLICATION NEEDS PATENT OFFICE LICENSE UNLESS SIX MONTHS HAVE PASSED SINCE PATENT APPLICATION WAS FILED
4. PATENTS IN JOINT VENTURES
   A. TAXES OR MAINTENANCE FEES
   B. WORKING REQUIREMENTS
   C. PATENTS OF CONFIRMATION (LATIN AMERICA) AND IMPORTATION (BELGIUM, SPAIN) CAN BE USED, AT LATE DATE, TO INCREASE AND EXTEND VALUE OF PATENT ASSET

5. JOINT VENTURE FORM IS USEFUL IN THREE SITUATIONS:
   1. IT ENABLES THE COMPANY WITH LIMITED FINANCIAL OR PERSONNEL RESOURCES TO EXPAND ITS OVERSEAS OPERATIONS AT A SATISFACTORY RATE
   2. IT ENABLES A COMPANY TO ENTER THOSE ~~FEW~~ MARKETS THAT ARE NOT OPEN TO WHOLLY FOREIGN-OWNED VENTURES
   3. IT MAY ENABLE A FIRM TO TAKE ADVANTAGE OF THE STRONG MARKET POSITION, TECHNOLOGY, OR MANAGEMENT SKILL OF A LOCAL PARTNER

JOINT VENTURES

TYPES OF COMPANIES

LARGE COMPANIES ARE COMPOSED OF MANY PARTS (SMALLER COMPANIES)

COMPANY CULTURE IS IMPORTANT

BOTH LARGE AND SMALL COMPANIES OPERATE VIA JOINT VENTURES

EXAMPLES:

1. XEROX

   NEEDED TO EXPAND RAPIDLY OVERSEAS

   NOT EXPERIENCED OVERSEAS

   HAD STRONG PATENT POSITION

   FORMED JOINT VENTURES

   A. RANK-XEROX (ENGLAND-EUROPE)

   B. FUSI-XEROX (JAPAN)

   LICENSED ONLY SUBSIDIARIES (JOINT VENTURES)

2. ICI

   A. OPERATED THROUGH JOINT VENTURES

      US-FIBER INDUSTRIES (ICI + CELANESE)

      ICI LICENSED F11

   B. LICENSES

USSR-BUILT PLANT IN USSR + LICENSED IT