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Global warning

Illustration by Sébastien Thibault

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Talisman Energy Inc. in 1998 purchased a 25% stake in the Greater Nile Petroleum Operating Company in Sudan for $278 million. Reaction was swift: Shareholder activists were immediately up in arms, claiming oil production from the project was providing financing to prolong Sudan's civil war. The Calgary-based oil and gas producer responded by initiating annual corporate social responsibility (CSR) reports and openly complying with the International Code of Ethics for Canadian Business.

But protesters pressed on. The Presbyterian Church of Sudan in late 2001 filed a $1-billion class action lawsuit in the United States alleging Talisman had helped the Sudanese government bomb churches, kill church leaders and attack villages to make way for oil exploration.

The following year, Talisman announced a deal to sell its interest in the Sudanese project. It appeared shareholders were tired of continually having to monitor events in Sudan and, as such, shares were significantly down. At the same time, then-CEO and president Jim Buckee made a commitment to improve the lives of the people of Sudan by funding medical assistance, shelter, clean water and vocational training projects in Sudan and several other under-developed countries. Talisman also continued to issue annual CSR reports and perform risk assessment studies on internal conflicts, employee safety, human rights and security issues.

By 2003 Talisman had fully divested its interest in Sudan and six years later the genocide lawsuit was dismissed. But the ordeal was a valuable learning experience, compelling the company to face critical issues related to human rights, security and the role of companies in conflict zones that continue to be applied across Talisman's global operations. Today, the company's sole African presence is in Algeria, but it's in the Middle East as well, in the Kurdistan region of northern Iraq.

Talisman's experience demonstrates the many complications Canadian businesses can face when choosing to do business in regions where western values often take a backseat to chaos and corruption. Among those regularly jetting to Africa, the Middle East and Central America are mining and oil and gas extraction companies, and they come home with some hair-raising stories. Yet by doing extensive legwork before setting off, say those on the ground, it's certainly possible to be successful in notoriously dangerous territories.

"For the metals or mining industry, we don't have the luxury to locate in downtown Vancouver because there aren't many extractable minerals here," deadpans David Deisley, executive vice-president of corporate affairs and general counsel at Vancouver-based Goldcorp Inc. "We have to go where the minerals are, and that's one of the reasons the extraction industry is at the forefront of development in countries around the world."

Deisley knows firsthand what can happen when venturing into high-risk regions (like many in the business, he prefers the phrase "high risk" over "dangerous," explaining that "business is about trying to identify and manage risks of all sorts"). Goldcorp has spent the past few years trying to tidy up a situation in Guatemala and Deisley has been the company's representative on the case.

Much like Talisman's story, Goldcorp acquired a company called Glamis Gold in 2004 that had developed the Marlin Mine in Guatemala. The mine went into production in 2005 and last year produced its millionth ounce of gold. But back in the mid-2000s the Central American country was still reeling from 36 years of civil war, with violence, a vibrant drug economy and human rights abuses of indigenous people all too common. As the mine got up and running, protesters in the largely indigenous-populated highlands began blocking highways. It made life difficult for those at the mine and production was in jeopardy.

"There were a number of groups based in Canada... that saw us as a target for advancing their agenda and they made a series of allegations, from environmental contamination to not treating workers appropriately, and a whole bunch of stuff that had no merit," recalls Deisley. "That's what raised the concern of investors."

One of those concerned was NEI Investments of Vancouver.

The mutual fund company was heavily invested in oil and gas and mining companies, including Goldcorp, and quickly sent an analyst to Guatemala to examine the situation and assess the risks. At NEI's urging, Goldcorp agreed to conduct an independent human rights assessment. A steering committee was struck comprising Deisley, an NEI vice-president representing Vancouver shareholders, and a Guatemalan who had founded a local transparency organization. NEI oversaw the hiring and assessment process, ensuring transparency, independence, inclusivity, confidentiality and consent of the impacted communities to undertake the assessment. A Vancouver firm called On Common Ground, which had extensive mining and Latin American experience, conducted the assessment.

It took two years to come up with 72 recommendations — published in English, Spanish and two local Mayan dialects — and Goldcorp responded to each recommendation. The committee held meetings with local government and business representatives as well as the community. A full report was published in 2010, with three additional reports released last year. Goldcorp continues to update shareholders through its annual sustainability report.

"From what we can tell, the company is interacting much more progressively with the two local mayors," says Robert Walker, NEI's vice-president of ESG Services and Ethical Funds who sat on the Goldcorp committee and is now in discussions with Barrick Gold to conduct a similar human rights assessment at its global mines. "Goldcorp's report and response has led to a situation where the company is now delivering better benefits to the community, doing a better job of ensuring the protection of human rights, and now has in our view — knock on wood — secured access to the resource."

Robin Taylor, managing director of the Risk and Controls Group at PwC in Toronto, has worked with many Canadian companies doing work in high-risk countries. He says risk usually falls into four categories. There's political risk stemming from frequent regime changes and revolutions, prompting people to change laws, implement draconian laws or try to expropriate an international company's operations. Operational risks include corruption and unpredictability, especially in terms of enforcing contracts.

Countries involved in civil war pose security risks such as kidnapping and threats on life, he adds, while terrorism presents a whole different set of problems.

As with all business ventures, proper planning — or due diligence as the experts prefer to call it — is key to succeeding overseas. As risk and security consultant Henry Morris puts it: “There are no ‘safe’ countries. Some are riskier than others. But if you do due diligence, most situations are manageable.”

Morris served as a pilot with the Royal Canadian Air Force and Canadian Forces for 33 years and then spent a decade with the United Nations in Central America, Angola and Africa. Now he lives in Florida and advises extractive companies on risk, security, military relations and human rights issues. He’s a huge believer in preparing well in advance of moving into a new region and urges clients to tap into the local Canadian Embassy for a true on-the-ground perspective.

While embassy staffers won’t recommend people to deal with, he says they can offer the lay of the land including information such as whether there’s a long drug cartel passage or which groups to be wary of. They can also provide information on country policies and who’s who in government and the police (especially important if there’s a new regime). It’s also critical to understand the international standards such as World Bank guidelines, Voluntary Principles of Security and Human Rights, and the Foreign Corrupt Practices Act, he says.

Many other consulting firms and industry organizations can offer due diligence assistance, too. NEI, for instance, has a series of risk assessment tools while companies such as PwC can conduct extensive background checks on potential business partners and offer full risk analysis services. And the Prospectors and Developers Association of Canada’s E3 Plus Principles for Responsible Exploration guides companies on human rights and responsible exploration and includes toolkits and a risk assessment module.

Talisman has certainly applied a few of the lessons it learned from its experiences in Sudan. “While emerging issues are difficult to predict, we have learned that due diligence prior to any investment is one of the best ways to mitigate potential issues in our operating areas,” the company states on the CSR section of its website (Talisman declined to be interviewed for this article). “Prior to investment, we perform an extensive evaluation of the technical and economic challenges as well as the commercial, legal, political, regulatory, environmental, security and human rights issues related to any investment opportunity. Our decision to invest is based on these above-ground evaluations as well as our resource assessments.”

It’s also important to seek out a competent country manager, someone who’s trustworthy and comes recommended. Morris says most locals “are honest and hard workers looking for a stable paying job” yet there are many who take advantage of newcomers. Talk to other companies or the local Chamber of Commerce and ask for recommendations, he says, and network like crazy.

“Go around and explain to the different embassies what you’re actually doing,” Morris urges. “A lot of embassies have social projects in their area, and sometimes you get a bad rap if you're in mining. Explain or invite them out to the project and show them around and explain what you're doing, because there are a lot of misconceptions." Businesses can also invite NGOs to give a seminar on human rights or women's rights and also invite the police, the military, companies and the local church. "You get them all together but you're sponsoring it," he says. "Invite the embassy and they will show up and that would be a very positive way of promoting community awareness of some of these aspects."

Alex van Hoeken, CEO and president of Toronto-based Kilo Goldmines, has been working in the Democratic Republic of the Congo since 1999 and his gold exploration company has been there since 2007. Kilo is also a preferred dealer on an iron ore project in Afghanistan and is currently filing negotiations with the Afghan government. Wherever van Hoeken treks, he finds local partners by talking to people he trusts or sometimes through chance meetings.

"There's no magic formula — sometimes it's gut instinct," van Hoeken says. "But most of it relies on your personal experience in business in general and working overseas. If you approach somebody and you talk to them, do they sound credible? Sometimes they come recommended, and that gives you a head start."

Five years ago he was managing a project for a client in the Congo and was the sole ex-pat in the area, with no telephones for miles. One day a local official came by "basically to hassle me," he recalls. His Congolese employees became his front-line defence.

"They asked him what was going on and said, 'Leave him alone. He came here to create jobs,'" van Hoeken says. "They literally picked him up by the scruff of the neck and threw him out of the house. It was quite amazing. It was a perfect example of creating the kind of local relationships that benefit you going forward."

But be careful whom you trust. Melvin Glapion, who leads London-based Kroll's business intelligence practice, says some regions are infamous for conflicts of interest. Suppliers might have close personal or financial relationships with chief executives or government officials, leading to corruption and bribery risks. Senior execs may be partnering with shady characters or outright criminals.

According to this year's Kroll Global Fraud Report, Africa reported the highest incidence of fraud, with 85% of 1,200 global respondents falling victim to fraud in the past year. Corruption was also a major problem, with 78% of companies in Africa indicating a high or moderate vulnerability to bribery and corruption. Africa remains the region where the experience or perception of fraud has dissuaded most companies from operating, the report states. In the Middle East, the number of companies that have suffered from fraud has fallen, though bribery, corruption and supply chain fraud were up from last year.

“You can’t necessarily sit at your desk and come up with great plans on how to actually operate in those markets,” Glapion says. “And you’re not necessarily better off even if you have an office there, because [they might not] know how to access [the right] information. You need to be able to get on the ground and actually get your hands dirty and go out there and interrogate the information that’s coming to you.”

Another major consideration in conducting business in more dangerous regions is security. Tyson Johnson, director of global security and investigations at Toronto-based Celestica, has worked extensively in Mexico to keep Canadian and local employees safe. Before treading into a high-risk country, he advocates setting up a proactive travel management program. It should include using technology such as videoconferencing and WebEx to eliminate unnecessary travel, implementing policies including curfews and locale restrictions, and placing trusted security people on the ground.

But don’t overreact, says Andrew Matthews, international operations director at Appleton Consulting. He’s been working in war zones since 2003 and now flies every six weeks to Afghanistan and Iraq to help local companies grow their businesses and partner with Canadian firms. Though based in Ottawa, he has a house in downtown Kabul and drives a Toyota Corolla while there. He doesn’t wear a helmet or a bullet-proof vest and shuns armoured cars, preferring not to “stick out.”

Appleton was just named lead design consultant on the New Kabul City, meaning Matthews will spend even more time there over the next seven months. Though he admits areas such as Kandahar and Helmand province are troublesome, there are 34 other Afghan provinces that are perfect for doing business.

Finally, get familiar with local customs and nuances. Moses Kiggundu, who teaches management and international business at Carleton University’s Sprott School of Business in Ottawa, says doing business in Africa takes time. Unlike North Americans, who rarely mix business and pleasure, Africans like to get to know a potential business partner before signing any contracts. In his native East Africa, people tend to avoid direct eye contact if they consider themselves to be from a lower social status, which North Americans might interpret as being dishonest. “There are differences, and people need to be aware of those so they don’t make the wrong conclusion when others behave differently.”

Risky business

If three of more of the following elements on Kroll’s MORTAR test are present, your business is about to operate in a dangerous territory. This is the MORTAR test:

- **M**arket data It’s scarce or unreliable.
- **O**pen corporate structures Names of individuals show up as shareholders, but they’re not the beneficial shareholders, or information suggests the companies are owned by other entities in offshore tax-haven locations such as the Cayman Islands.

- **R**estricted access to the public record Media stories get placed or pulled due to close government relationships, or public documents have been tampered with or placed there intentionally.
- **T**ies to government determine success The entrepreneurial class either comes from government or is closely tied to government and much of the business growth relies on those ties. Think about it: are you winning contracts because of that, and are you getting back into deals or paying for the work you're actually receiving?
- **A**bsence of judiciary or clear legal frame- works Is your business partner related to a government minister? You might have the ability to go to court and file a lawsuit, but would you do that if it meant putting your business in jeopardy?
- **R**egulatory environment is volatile Countries either change their leadership regularly or change the direction of the regulatory environment to work in their favour.