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Pictured here is  
article author Mahesh  
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# Expanding to India

Photograph by Amy Connor

How to "zig" your business plan as the local economy "zags" By Mahesh K. Nayak

**R**eading accounts of the slowing economy and national recession day after day, it is easy to become discouraged about the prospects for local business in the year or two to come. However, there is also an opportunity to recognize that while business prospects may seem dismal, it can be a matter of perspective and knowing where to look. While all indications are that the national economy is slowing, there are abundant opportunities to capitalize abroad.

The global economy is not immune from the flu, and the United States is still recovering. However, foreign countries like India present significant business opportunities. Consider the business case. India is the world's largest democracy and already has a middle class consumer base rivaling the United States. CEOs of Detroit's Big 3 have acknowledged that a majority of automobile sales in the next

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ten years will be in Asia. One hundred of the Fortune 500 have R&D facilities in India. The Indian economy has thrived

in the last decade at a healthy eight percent growth, and the markets have been bullish. The country has a highly educated middle class populus exceeding 300 million people and India's populus makes up 33 percent of the world's online population. English is the language of business.

If your business is automotive related or focused on IT, healthcare, e-commerce, pharmaceuticals, construction, architectural design, finance, telecommunications or real estate speculation, opportunities in India abound. Comparatively lower labor costs, combined with tax incentives and a consumer-hungry middle class whose appetite remains voracious make India something to consider as you contemplate how to "zig" your business plan as the local economy "zags." Since the Big 3 are already in India, it will be the forward-thinking supplier here that will act ahead of the curve so they can continue to grow with them there.

However, as when entering any foreign market, you need to educate yourself

well in advance of the challenges of going abroad. Here are just some of the considerations you might keep in mind:

**Remember what Tip O'Neill said: "All politics is local."**

Recognizing the differences between the legal systems and cultures, start with trusted professionals in your own backyard to effectively carry out your directives in India. The value of the local professional is accountability to you, here and now. Make sure your local professional has ties with trusted counterparts in India. Many law firms, for example, belong to international legal consortiums with the very best firms in India. You know how you would want it done here. A hometown quarterback who understands how to bridge the cultural divide can effectively communicate the how, what and when for you there.

**Know Who To Trust.**

Operate from the strength of established business contacts in India. For example, companies have been surprised to learn that a company whom they believed to be a major player in the steel industry is in fact not, and cannot supply requirements as and when needed. Knowing the right players will get you into other doors. U.S. consultants of Indian origin, including people like former CEOs of major Indian companies, are worth their freight.

## When In Rome...

Despite having done so at the speed of light, India has only recently modernized and remains deeply rooted in cultural aspects that are thousands of years old. Many Indians are vegetarian, which may guide your dining choices when you accompany them. If you are offered food or drink at a business meeting, accept it. Be assertive, but not aggressive in your business negotiations, lest it be taken as



▲ Clark Hill held an Asian Indian Community Building event February 26 at the firm's Birmingham office. Pictured here is article author Mahesh Nayak.

a sign of disrespect. When dealing with someone who has a title, use it instead of calling him or her by first name.

## Determine the Best Port of Entry.

Will it be more advantageous to establish a foreign-owned subsidiary or go the route of a joint venture (JV)? Making the decision will depend on the amount of control you wish to exert. Also, establishing a wholly owned subsidiary may require special permission of local government. Foreign companies can open branch offices in India, but will pay at a higher tax rate than they would as a 100 percent subsidiary or as a JV, and there may be increased liabilities for the parent company.

## Beware of Litigation!

Disputes in Indian Courts can be cumbersome and prolonged, given the demands placed on the legal system by a large populous. Carefully negotiate contracts and consider arbitration agreements and choice of law provisions.

## Money.

India incentivizes foreign investment to support its continued economic and industrial growth. For example, new industrial investments may deduct a substantial portion of their gross total income for eight years. You can take advantage of tax exemptions on profits from exports of goods, liberal depreciation allowances, exemptions of foreign exchange earnings on certain construction projects and hotel and tourism related services, deduction of certain startup expenses, exemptions from corporate taxes from certain projects related to utilities and energy, and "tax holidays." Businesses

focused on exporting goods from India should become familiar with Export Processing Zones. Also to consider are the India-U.S.A. tax treaty (reducing withholding taxes) and the India-Mauritius Tax Treaty (Mauritius is an offshore island tax haven, similar to the Cayman Islands). Last, repatriation of your profits from India back to the U.S. is much easier than in other Asian countries.

## Location, Location, Location.

In the United States, if you want to shoot movies, you move to Los Angeles (or perhaps now, Michigan). If you are an IT company, look to India's Silicon Valley in Bangalore or Hyderabad ("Cyber-a-Bad"). If manufacturing, perhaps to Pune and if finance, to Mumbai, or Delhi. India already has a well-built business infrastructure and depending on the kind of business you are, you should position yourself to best take advantage of it.

## Know The Law (or better yet, hire a lawyer who does!).

If you are a business, you need to be well advised of several key laws, including the Companies Act of 1956, the Indian Contract Act, the Industries Act of 1951, the Trade Unions Act, the Competitions Act, and the Foreign Exchange Management Act. This is not an exhaustive listing, but a good start. Doing business in India is not as complex or onerous as it is in China, where you sometimes must have a native partner in your business enterprise.

Noted economists have opined that India presents much greater opportunities than China for foreign investors and that if you are a multi-national company, you need an India strategy. Indian companies have begun migrating into the United States, and have been parties to some of the largest international corporate acquisitions in the world. Consider Mittal Steel's \$13.6 billion acquisition of Arcelor, Tata's acquisition of U.S.-based health drinks and water manufacturer Glaceau, or Infosys's acquisition from Phillips of BPO centers throughout southeast Asia. Coming from the other side of the pond, the Big 3 continue to devote resources toward building factories and plants throughout India. Of course, they will need a trusted supplier base, perhaps creating a narrow window of opportunity for the right forward thinking businesses. You want to be there before your competitor.

India has transformed into a global economic superpower in less than 15 years and there is still time to catch the wave. Forward thinking Detroit businesses have a good starting point right here at home to build and launch an action plan that will enable them to diversify. In only a short while, with proper planning and the correct partners, these businesses will see return on investment, sustaining and growing their operations, while looking at their competitors through their rearview mirrors. ■

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