Navigating Global Frontiers:

A Primer on International Risk Management for Business Officers

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Learning Objectives

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I. Gain a foundation for the myriad of risks presented in international educational/operations abroad.
II. Understand the legal and regulatory frameworks impacting international operations for higher education institutions.
III. Review current trends and challenges associated with global operations in higher education.
IV. Explore effective risk assessment and mitigation strategies tailored to the unique challenges faced by higher education institutions engaged in international activities.
V. Develop an understanding of crisis management principles applicable to global higher education settings.

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What type of international activities is your institution doing (e.g., study abroad, research sites, etc.)?

ⓘ Start presenting to display the poll results on this slide.

Types of Risks Facing International Efforts

- Health, Safety, Security
- Tax
- Data Privacy
- Export Control
- Sanctions
- Liability
- Other Compliance Related
- Reputational

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International Risk Management Challenges

- Risks run the gamut;
- Difficulty creating defined policies and procedures depending on scale;
- Replicability: The RM challenges in one location may not be the same in another;
- Multiple points of contact/expertise across campus;
- Gaps in knowledge;
- Ambiguity in local regulations;
- Knowing where you are!

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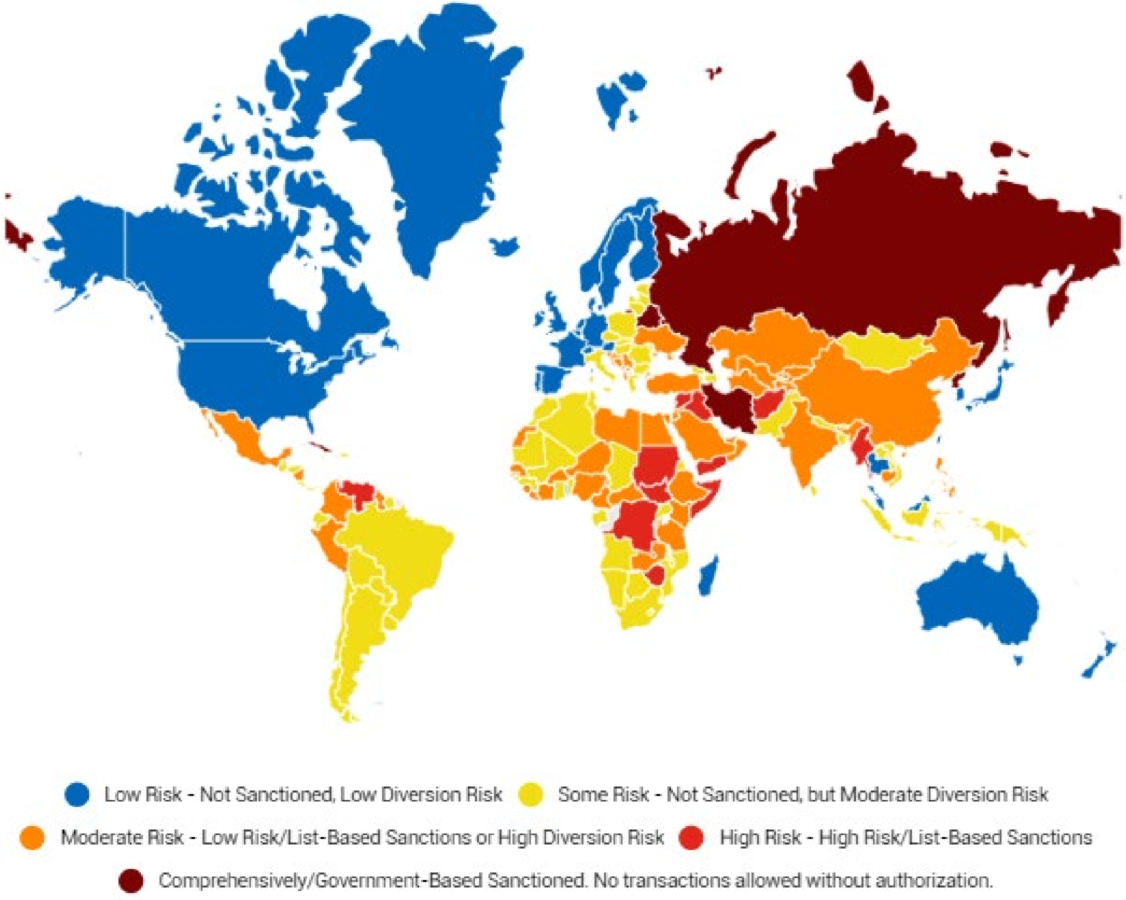
Case Study #1

A faculty member has come to you to discuss how to pay an international vendor. Upon discussion, you learn that the vendor will be providing transportation and arranging logistics for the professor's Religious Architectural Appreciation course to Lalibela, Ethiopia, that is scheduled to depart next week.

What are some of the risks here? What (if anything) do you do with this information?

Key International Compliance Considerations



International Compliance and Risk-Mitigation Heat Map (2024 Update), Foley & Lardner LLP, https://www.foley.com/insights/publications/2024/04/intl-compliance-risk-mitigation-heat-map-2024/

Office of Foreign Assets Control (OFAC) Sanctions: Through the Department of Treasury, OFAC enforces economic and trade sanctions based upon U.S. foreign policy. Among other categories, sanctions regime include targeted foreign countries and regimes by degree, Specially Designated Nationals, Restricted Parties.

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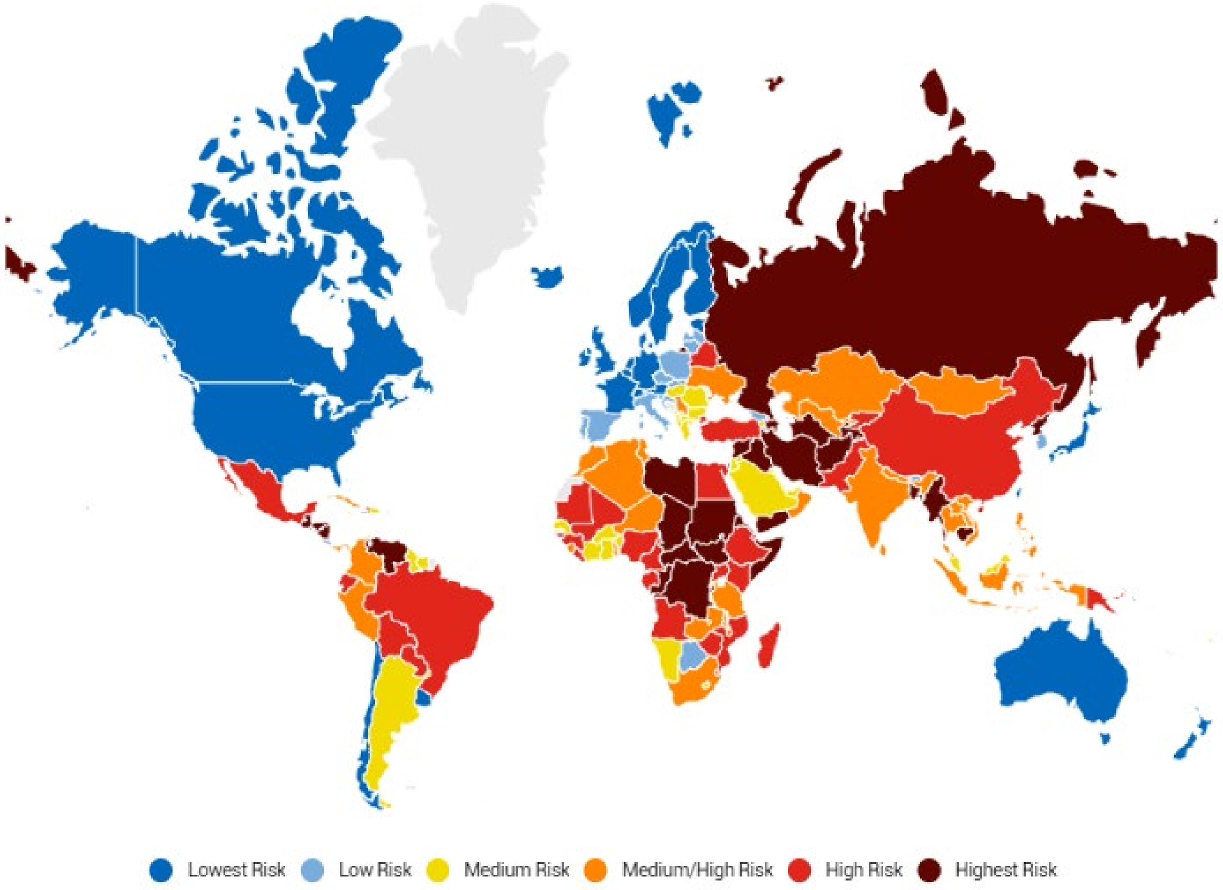
Key International Compliance Considerations



International Compliance and Risk-Mitigation Heat Map (2024 Update), Foley & Lardner LLP, https://www.foley.com/insights/publications/2024/04/intl-compliance-risk-mitigation-heat-map-2024/

Foreign Corrupt Practices Act (FCPA): Makes it unlawful to bribe foreign government officials to obtain or retain business. It also requires issuers to maintain accurate books and records and have a system of internal controls that provide reasonable assurances that transactions are executed and assets are accessed and accounted for in accordance with the institution’s authorization.

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Key International Compliance Considerations

Export Controls: Export control regulations control what hardware, software, technology, and data can be exposed to certain foreign nationals working or residing in the United States. They also control the same regarding what can be shipped, transported, or transmitted by any means to non-US destinations for certain end uses by specific persons or entities.

Host Country Regulations: In addition to compliance with U.S. laws with extraterritoriality, local laws pertaining to foreign operations abroad can be just as onerous, if not more so! These can include immigration, employment, tax, and a slue of other issues.

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Case Study #2

A faculty member reaches out to your office to inquire about medical insurance for their upcoming business travel. In discussion, you learn that they have been invited on an all expenses paid trip to speak on their latest computer science breakthrough at Northwestern Polytechnic University.

What are some of the risks here? What do you do with this information?

New Compliance Obligations

National Security Presidential Memorandum (NSPM)-33:

(H)eads of funding agencies shall require that research institutions receiving Federal science and engineering support in excess of 50 million dollars per year certify to the funding agency that the institution has established and operates a research security program. ***Institutional research security programs should include elements of cyber security, foreign travel security, insider threat awareness and identification, and, as appropriate, export control training****. Heads of funding agencies shall consider whether additional research security program requirements are appropriate for institutions receiving Federal funding for R&D in critical and emerging technology areas with implications for United States national and economic security.*

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New Compliance Obligations

NSPM-Draft Research Security Programs Standard Requirement Memo:

Covered research organizations must establish or maintain international travel policies for covered individuals (see Definitional Appendix) engaged in federally funded R&D who are traveling internationally for organizational business, teaching, conference attendance, research purposes, or who receive offers of sponsored travel for research or professional purposes. International travel policies and procedures must include: ***1. Maintenance of an organizational*** *record of covered international travel by covered individuals engaged in federally funded R&D.* ***2. A disclosure and authorization requirement*** *in advance of international travel.* ***3. Mandatory applicable security briefings****, and advice regarding electronic device security (e.g., smartphones, laptops) prior to covered international travel, or to travel including electronic devices utilized for federally funded R&D or bought with Federal funding*

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New Compliance Obligations

CHIPS and Science Act, Foreign Talent Recruitment Programs: Federal grantees must disclose if they are a party to a foreign talent recruitment program, contract or agreement. Prohibitions on participations in “malign foreign talent recruitment program, defined as a program by, or entity in, a foreign country of concern, currently defined as **China, North Korea, Russia, and Iran.**

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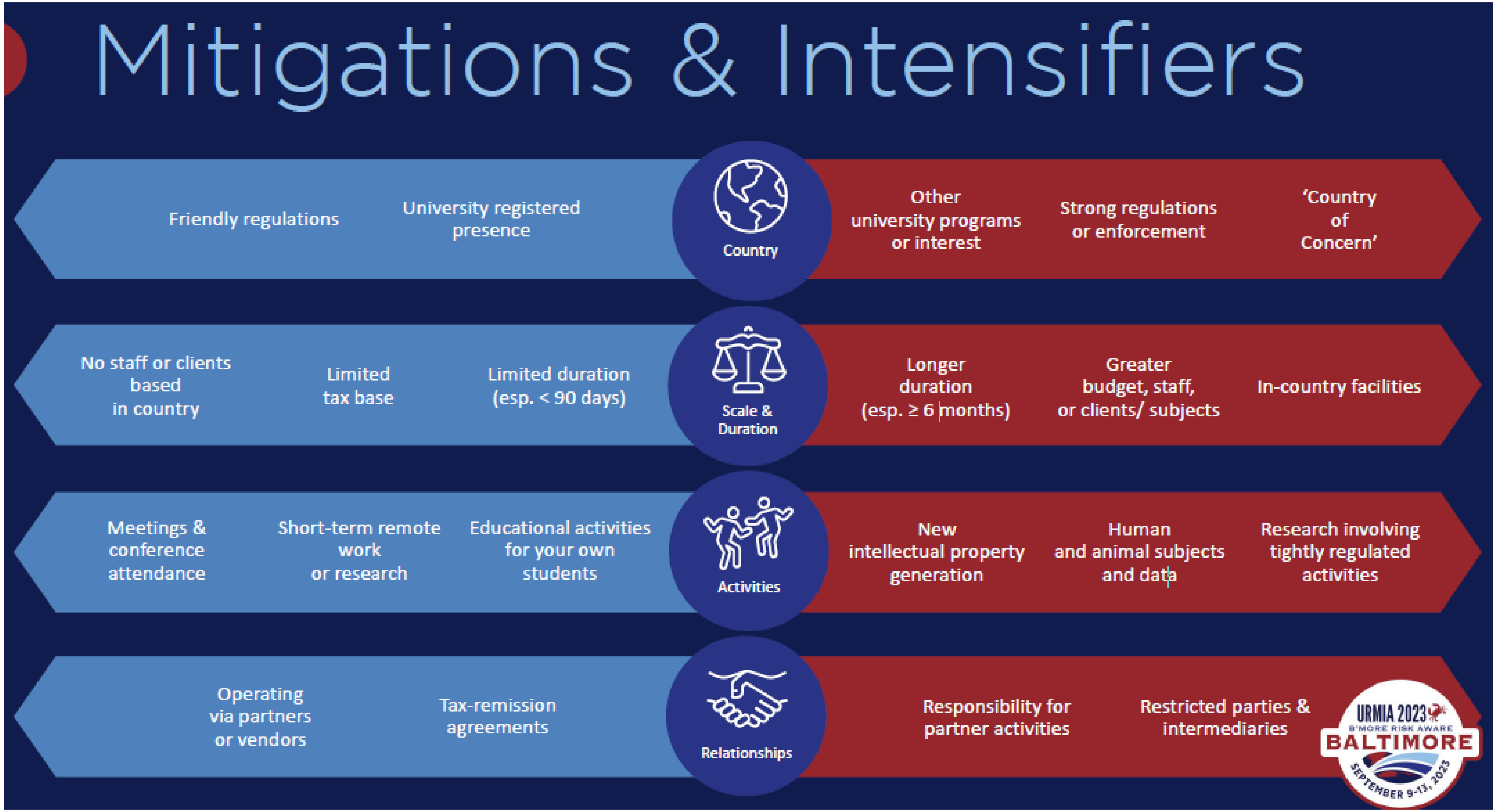
Compliance Risk Assessment



"Demystifying the Compliance Risks of Activities Abroad." Kristy Holmes, Shaun Jamieson, Joseph Levy. 2023 URMIA Annual Conference

Case Study #3

As part of an intensive Arabic instruction course that your school offers in the summer, a group of 20 students (both undergraduate and graduate) will be travelling to Lebanon to complete a required course capstone.

What are some of the risks here? How does your institution approach such a trip?

Civil Liability

Negligence: Duty of Care (DoC) + Breach + Causation + Damages

Travel Risk Management to Meet DoC: Evaluating, Mitigating, and Responding to Risks associated with business-related travel.

Risk Mitigation: Avoidance, Reduction, Acceptance, Transfer

- Transfer: Contracting and Insurance

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Travel Risk Management Policy Considerations

- Do you have a travel policy?
  - o Whom is covered if so, e.g., Undergraduate Students, Graduate Students, Administration/Support Staff, Faculty/Researchers?
  - o What is the definition of University-related travel?
- Is there a process for traveling to ‘high risk’ countries?
  - To whom does the process apply?
  - What are the criteria?
- Do you have insurance that would respond to:
  - o Medical emergencies?
  - o Deaths abroad?
  - o Safety/security emergencies?
  - o Whom is covered if so?
  - o What are the terms/conditions/exclusions that could impact coverage?

Health/Safety/Security Risk Assessment

- **Location Risk**
  - County, State/Province, City, Neighborhood, Dwelling
  - What are the categories of risk, e.g, crime, terrorism, health, etc.
  - What sources of information are you using in your review, e.g., DoS, CDC, travel emergency assistance provider.
  - What criteria.
- **Activity/Itinerary Risk**
  - What types of activities will be a part of the program? Generally, anything that involves water, wheels, wilderness, or specialized equipment should get reviewed.
  - Road safety is biggest driver of mortality of Americans abroad.
  - What are unique health risks posed in the location, e.g., food safety, malaria, etc?
  - What is the healthcare capacity for emergent illness/injury?
- **Individual**
  - Specific travelers traits which may pose unique risks.

Case Study #4

It's Saturday evening of an extended holiday when you receive a call regarding a bus accident involving faculty, employees, and students on a trip in Panama – several have been injured, some severely. The person that normally handles these calls for your institution is totally unavailable.

What are some of the risks here?
What do you do?

Preparing for International Crises

- Much like other international risks, exact repeat of incidents is rare, i.e., different fact patterns, factors, considerations, etc.
- Preparation of processes in ADVANCE is critical;
  - What defines an incident, emergency, and crisis?
  - Who are the primary/secondary (if not more) POCs for managing?
  - Who is involved in your institution's international crisis response team? What are their roles and responsibilities?
  - Which affiliates are covered by which insurance/travel emergency assistance?
  - Who is an authorized person on travel emergency assistance contract?
  - Who has purchasing authority, and to what amounts?

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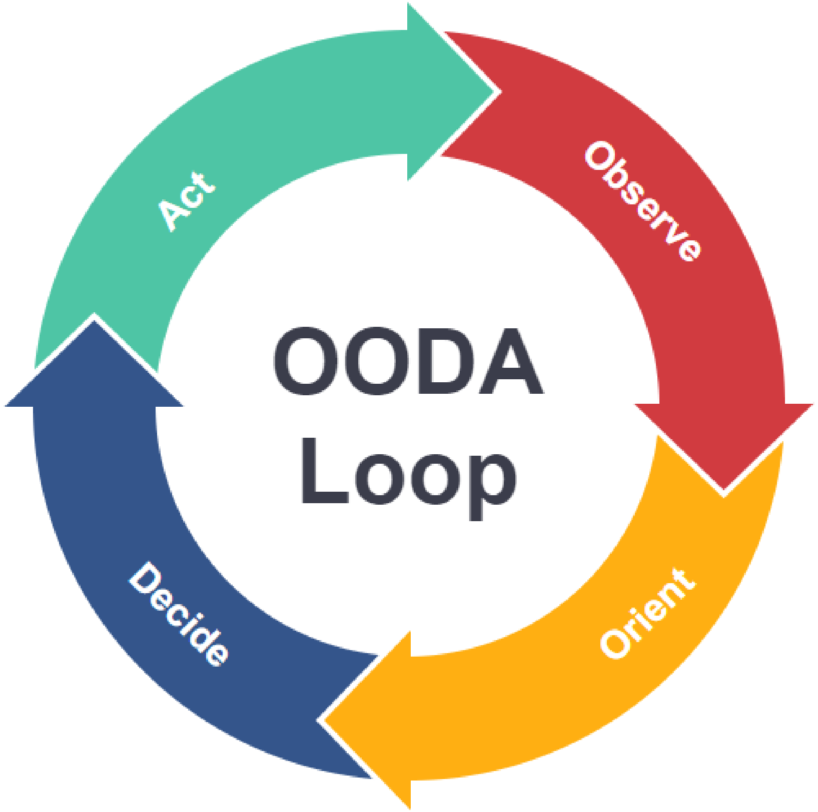
Responding to International Crises

- Document information and decision points as they occur (or soon thereafter);
- Avoid decision paralysis;
- Understand that new “micro-crises” are likely to occur throughout;
- Establish communication parameters, i.e., who will speak with whom? How often should senior management expect updates, etc.?
- Conduct After Action Reviews of every response.



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Contracting Overseas

Contracts: Hold Harmless, Indemnification, Insurance Procurement with Additional Insured Status and Waiver of Subrogation.

Insurance Considerations:

- Geographical Limit
- Jurisdiction/Governing Law
- Customary Local Limits
- Exclusions

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International Insurance

Common International Insurance Policies:

- Foreign Commercial Package
  - General Liability, Auto, Foreign Voluntary Workers Comp and Employers Liability, Business Travel Property
- Travel Related
  - Business Travel Accident, Kidnap and Ransom, Travel Medical and Security
- Misc
  - Defense Base Act, Locally Admitted Policies, Expat Medical

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Enterprise International Risk Management

- An ounce of prevention, but…
- There is no one size fits all answer – concentrate on processes (hopefully codified);
- You don't know what you don't know! Relationships are critical;
- Market as a resource/enablement, not a hinderance;
- Sort countries by risk categories;
- Consider working with local counsel;
- Form a working group to enhance cross-collaboration: OGC, Risk, Finance, Provost/President, Compliance, etc;
- Review certain activities, i.e., research, agreements, etc.
- Roadshow to schools/departments/units;

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Questions?

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