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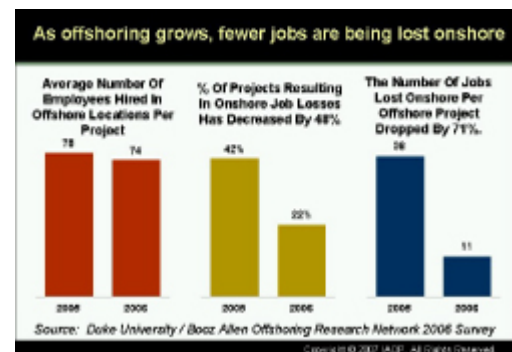
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**Outsource Contracting in a Global Context**

## • Outsourcing by the Numbers



The chart above is just one of the many findings released in the



Jagdish R. Dalal

At the recent Outsourcing World Summit, David Barrett of Simmons & Simmons gave an interesting keynote speech on "outsourcing's new global deal model". He discussed why outsourcing contracts between global companies, operating in different countries require special care. Although, in the end, the purpose of a contract does not change; dimensions of the contract change quite significantly in this new environment.

As defined in Wikipedia: "A contract is a legally binding exchange of promises or agreement between parties that the law will enforce." David defined outsourcing as "A results-oriented strategic business relationship with risk-sharing."



*IBM Secures Top Spot Again, Indian Firms Increase and China Makes the List for the First Time*

Global Outsourcing 100, the annual ranking of the world's best outsourcing service providers, has named IBM number one for the second consecutive year, added more Indian companies among its leaders, and recognized a Chinese company in its top 25 for the first time.

Compiled by the International Association of Outsourcing Professionals (IAOP) following a rigorous judged application process, the results also show that these 100 firms have growing sales, productivity and employment and demonstrate the continued strength of the fastest-growing segment of the world economy.

Revenue among the best companies grew nearly 20 percent in 2006 to more than \$170 billion. Companies on the list had on average \$1 billion in annual sales. Employment by these firms was up 13 percent from the prior year to an average work force of 13,688. Based on applications received, productivity also rose to \$83,000 per employee.

"Global Outsourcing 100 is a benchmark that helps executives gauge the strength of the industry as a whole and its service providers. The results show that outsourcing is stronger than ever," said Christina Powers, IAOP executive director.

"Companies on the Global Outsourcing 100 list ranged from large leaders having 332,500 employees and providing services in more than 50 countries, to smaller entrepreneurial companies from around the globe who are up and comers that will help shape the future of this industry," she said. "Despite their diversity, all winners shared strong management and employee programs, external recognition, certified competencies, customer testimonials and an increasing focus on innovation."

#### **Rise of Indian and Chinese Service Providers**

The IAOP's annual list is divided into two sections: Leaders, which represents larger, more established companies, and Rising Stars, smaller fast-growing companies that are ranked numbers 76 to 100 on the list. The association also publishes more than 25 sublists ranking outsourcing companies by the industry served, service offered and

As outsourcing becomes a global engagement, with various laws within different countries, practices impact the promises and agreement. In this short article, I will try to highlight some of these aspects and will use David's presentation as a guide (for more information, look at the OWS proceedings available as a resource on the website). This article is not meant to be a guide on all aspects of an outsourcing contract but highlights some of the nuances of the "globalness" of a contract.

1. Since a contract is an exchange of promises and documents the common understanding of expectations; it is important that the negotiating parties take the cultural and business background into account when defining the contractual term. David, in his presentation, referred to this as "political and social context." For example; in many Asian cultures, a non-compliance to a promise is a significant personal negative. If the contract then adds other penalties, it is almost like creating a "double jeopardy" for the company. In such circumstances, the two parties can agree to identify non-performance and establish how the offending party can "make good" on their promise without establishing rigorous penalties. Another example of this cultural diversity is recognizing cultures where identifying "bad news" is not accepted well. A good contract in such an instance will make sure that there are processes established to "report" all news (whether good or bad) and therefore, provide the forum for revealing bad news without putting a spot light on it.

2. Global outsourcing contracts are now driven by the recent emphasis on governance and compliance with various protection acts; such as Sarbanes-Oxley Act in U.S., Data protection (Safe Harbor provisions) acts of Europe, Basel agreements for banking. These acts and their applications are not uniform throughout the world and as a result, in a global agreement, both the parties have to recognize the different applicability and help the other party comply with them. This is what David refers to as one of the dimensions of a "win-win" agreement. One of the better known example is the "Acquired Rights Directive" of the European Union (and associated legal requirements of member countries) which protects the rights of employees as they transfer from one company to another. Since, U.S. based companies do not have to deal with a similar provision, they need to be mindful of the European company's requirements when drafting an agreement for the transfer of employees.

3. Yet another dimension of the global aspects of an outsourcing agreement is dealing with pricing issues. The currency fluctuation and economic factors impacting the costs of services can dramatically alter the basis for the outsourcing agreement. For example, the Indian economy

region of the world where services are delivered.

While the U.S. continued to dominate ownership of the outsourcing industry, three Indian-based companies made the top 10 on the list of Leaders, which have total combined revenues of nearly \$55 billion. These companies are Wipro, Infosys and Tech Mahindra. And for the first-time ever, a Chinese company, Neusoft of Shenyang, was listed among the best 25 companies. France also had two players in the highest ranks.

Topping the Leaders list was IBM, which also garnered the highest spot in the inaugural list last year. The U.S.-based \$96 billion technology giant continued to grow in size and depth of expertise. Capgemini, an IT outsourcing provider based in Paris, France, was ranked number two, rising three spots from last year, due to its exceptional ability to find innovative solutions for its customers. Other highest ranked companies were Hewlett-Packard, France's Sodexho Alliance and Accenture.

Companies on the Rising Stars list with revenues of less than \$60 million come from around the world and continue to be led by India and China. U.S.-based Summit HR Worldwide was ranked in the top spot in that section. Six firms that were rated Rising Stars last year made it to the Leaders category in this year's ranking. These companies include ExlService, HiSoft, KPIT Cummins, Concur Technologies, EPAM Systems and MindTree Consulting.

#### **Leaders Focus on Innovation**

Newcomers on the list are targeting various niches, from human resource management to engineering and design services, reflecting that the industry has morphed into areas beyond contract manufacturing, information technology and back office operations.

"Outsourcing has grown beyond a way to cut costs to being used as an effective business strategy by all major companies in all industries to find the very best innovation and talent, wherever it is located in the world, to better serve their customers," said Michael Corbett, IAOP chairman. "Many of the top leaders, as well as rising stars, were recognized for their innovation."

Companies recognized as having innovation as a strength included: Mastek, EDS, HCL Technologies, Cartus, Stream, Hexaware and Syntel in the Leaders category; and Summit HR Worldwide, Datrose, Objectiva Software Solutions, Intetics Co., Smart Sourcing and Sento in the Rising Stars section.

#### **Rigorous Criteria for Ranking**

Companies were ranked on their applications by a panel of judges according to 18 criteria including revenue, growth, number of employees, skills and training of their workforce, the number of technical and business certifications held, the track record of the management team, and the quality of customer service.

The evaluation team, comprised of IAOP member professionals, was led by Jagdish Dalal, managing director, thought leadership for the IAOP and a Certified Outsourcing Professional (COP). He is a world-renowned outsourcing expert who has worked as a senior executive in customer, provider and advisor companies for almost three decades.

The 2007 panel included David Barrett, Partner, Simmons & Simmons;

is growing at a fairly dramatic rate and is creating an ever-increasing gap in the exchange rate between Rupees and the U.S. Dollar. The salaries are also growing at a rate far greater than the rate of inflation and comparable wage growth in the Western world. A contract that establishes a rigid baseline for currency exchange in such a changing environment will create an undue stress for an Indian service provider and will not result in a "win-win" model of a good contract.

4. In recent times, U.S. companies have become more aware of their corporate responsibility. David pointed out that these corporate responsibilities deal with issues such as "green environment", "ethical employment practices" and "community involvement." The definition and applicability of these principles are different in different parts of the world.

Although, there are base acceptable standards for businesses globally (such as employment practices dealing with underage children), recognition and interpretation of these requirements varies widely. For example, in an emerging nation, a green environment takes a back seat to fulfilling basic human needs.

5. Since a contract is supposed to assure that the agreement is legally binding; global dimensions of enforcement need to be understood and agreed upon. This not only means recognizing the basis for the contract law of different countries, but also how those laws are applied and judgments enforced. A good contract will have made sure that both parties understand these differences and have reached an agreement on dealing with them. After all, as David points out, the contract is also about "risk sharing" and establishing an "openness" in the relationship from the outset.

Maybe in a world that is "flat", these differences will slowly disappear and contracting between two parties will remain as simple as defining "promises" and reaching "agreements". Until then, contracts will have to deal with the global differences in an outsourcing world and account for the differences. That will create the true "win-win" agreement and a longer term success for both the parties.

We would love to hear from all the lawyer and non-lawyer members, with your thoughts and experiences on the topic.

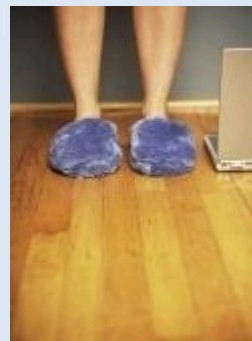
Jag Dalal is Managing Director of Thought Leadership with International Association of Outsourcing Professionals (IAOP). He can be reached via email at [jag.dalal@outsourcingprofessional.org](mailto:jag.dalal@outsourcingprofessional.org).

Shantz Professor of Strategy & Organizational Behavior, Queen's School of Business (Canada); Vera Marques, Director South America, BASF; Mukesh Mehta, SVP, Wachovia; Clifford D. Moore III, Chairman & Co-Founder, COPC Inc.; Jean-Francois Poisson, COP, GM, Contract Management, Bell Canada; and Lisa Ross, CEO and Founder, FAO Research, Inc.

"The Global Outsourcing 100 list and sublists are valuable and essential tools for companies to use when looking to start or expand a relationship with an outsourcing service provider," Dalal said. "About half of the entrants on the list were first-time applicants, showing that companies are increasingly recognizing the value of being included on these lists."

To view the complete list and download the Fortune® special section, [click here](#).

## • IAOP Chapter Network



Want to attend your next chapter meeting in fuzzy slippers? Did you know IAOP has many virtual chapters? Did you know IAOP's chapter network is open to all IAOP members and guests? Did you know IAOP's chapters are treated more like affinity groups than chapters? Become involved in any and all chapters and meetings!

Learn from industry experts, network with peers and hear first hand about IAOP programs.

IAOP's Newly-Forming Chapters - Spain (Madrid) chaired by Quint Wellington Redwood and Southern California chaired by PA Consulting. Watch for the first meeting announcements!

## UPCOMING MEETINGS

**Sales & Marketing Chapter:** *What Makes a Successful Outsourcing Sales Professional - According to the Buyers and Advisors*. Tuesday, May 8, 2007.

**San Francisco Chapter:** *Foreign Exchange Workshop for Outsourcing Professionals*. Wednesday, May 9, 2007.

**New York Chapter:** *How to Create and Sustain Successful HR Outsourcing Deals* Wednesday, May 9, 2007.

**Boston Chapter:** *Russia and Eastern Europe: Multi-sourcing at Work* Thursday, May 10, 2007.

**Dallas Chapter:** *Outsourcing IT Contracts and Intellectual Property* Tuesday, May 15, 2007.

**Governance Chapter:** *Governance in the Selection/Negotiation Process* via webinar Wednesday, May 23, 2007.

**All IAOP members** wishing to attend any chapter meeting, please email [beryl.sorensen@outsourcingprofessional.org](mailto:beryl.sorensen@outsourcingprofessional.org) to register. **Non-members** may attend as a [guest of IAOP](#).

## Interest to IAOP Members

### COP Program

May 8th, 2007 · [Complimentary COP Prep Class](#) webinar

May 9-11, 2007 · Hong Kong Master Class  
[Register TODAY!](#)

May 14-17, 2007 · COP Master Class · North Carolina, US  
[Two seats left!](#)

[Click here](#) for Master Class dates in June and July.  
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### The 2008 Outsourcing World Summit

February 18-20, 2008 · Disney's Contemporary Resort · Orlando, Florida

This 3-day event offers delegates a comprehensive learning environment from educational sessions, to pre and post-conference workshops and networking events.

[Click here](#) to view the latest information and register online!

*Companies interested in exhibiting are encouraged to reserve space early. Last year's exhibit hall was a complete sell-out.*  
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**Are you a member yet?** IAOP's global membership encompasses hundreds of organizations from around the world representing a cross-section of industries and functional activities.

Find out which membership option is best for you and your firm by [clicking here](#).

Contact Renee Preston at [renee.preston@outsourcingprofessional.org](mailto:renee.preston@outsourcingprofessional.org) for more information on membership and events.  
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### Strategies for Optimising Telecoms OPEX & CAPEX World Forum 2007

Kingsway Hall Hotel, London 25th - 27th June 2007

The Telecoms OPEX & CAPEX World Forum is the only event to examine all aspects of Network Outsourcing, Managed Services and Low Cost Operator Strategies as ways to increase AMPU. The programme features 6 workshops, extended networking opportunities and over 50 speakers from companies such as Orascom Telecom (Egypt), MTN (Nigeria), BT (Spain), M-Tel (Nigeria) and 3i (UK). For more details [click here](#). To register call: + 44 (0)20 7017 5537 or email [telebookings@informa.com](mailto:telebookings@informa.com). Quote IAOP to receive a 10% discount off the registration price.

## • New to IAOP's Knowledge Center



[Managing the Complexity of Network Convergence through Outsourcing](#) by Hewlett-Packard

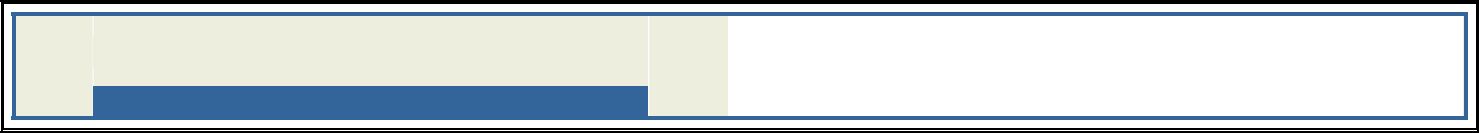
[Setting Up for Success: Getting Things In Place Before You Migrate Processes](#) by ExlService, Inc.

[Global City Competitiveness](#) by neolT

[An Examination of Supplier Management Tools and Practices Today and Opportunities for Tomorrow](#) by Expense Management Solutions

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