

The North Texas District Export Council



Exporting with the Experts



Session Topics

- Basic Types of Exporting
- Trademarks
- INCOTERMS
- Non-Tariff Barriers





Five Basic Types of Export

Exporter of Record-the party who has title to the goods when the goods are exported.

Export Types

1. Direct
2. Indirect
3. Sales of Intellectual Property
4. “Alternative” Methods





Indirect Exporting

“Use an Intermediary”

- You are not the exporter of record as in all of these methods (except one), ownership of goods is transferred prior to export
- Export Management Companies (ownership is retained)
- Export Trading Companies (ownership is transferred)
- Foreign trading companies (ownership is transferred)
- Other intermediaries
 - Foreign buying offices
 - Project buying offices





Direct Exporting “Do it Yourself”

- You are the exporter of record
- Exporting directly from your facility to end user
- Exporting through agents/distributors/VAR's
- Set up your own foreign sales or branch office
- Buy existing foreign operations
- Establish a foreign joint venture
- B2B e-Commerce
- B2C e-Commerce



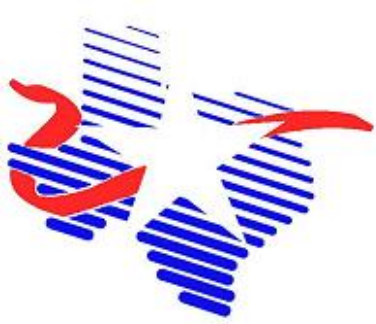


Intellectual Property

“Sell what you Know”

- IP consists of patents, trademarks, copyright and trade secrets
- Licensing IP
- Franchising-licensing trademarks
- Contract manufacturing





Alternative Methods

- Gray market-goods sold outside of an authorized chain of distribution. Gray markets sales are not illegal per se but may violate a distribution agreement as well as intellectual property requirements.
- Barter / Counter Trade-not advisable as it is very difficult to place a value on counter-trade goods





Trademarks

- Most important IP issue for exporters
 - Trademarks are a means for an individual or corporation to identify or brand their products in the marketplace and to create and maintain goodwill associated with such products.
 - Trademarks are created when a person claims that a combination of words, symbols, colors and/or sounds are exclusively identified with their product(s) (goods or services)
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Trademarks

- The two most common types of trademarks are trademarks for goods and service marks for services.
 - The symbol TM is used to establish a claim to a trademark. The symbol SM is used for a claim to a service mark.
 - The symbol ® may only be used once a mark has been registered with the federal government
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Trademarks

- While registration of a trademark is not necessary for a mark to be legally recognized, registration serves to perfect a claim to a trademark.
- Trademarks may be registered with both the federal government- federal registration (with the U.S. Patent and Trademark Office) results in the exclusive right to use the registered mark within the U.S.





Trademarks

- This exclusive right to use a U.S. federally registered mark, however, is granted only within the U.S. and provides no protection within other countries
- In order to have the exclusive right to use a mark within another country, the mark must be registered in that country





Trademarks

- There are two ways for the holder of a U.S. registered mark to receive registration in another country:
 - 1. Register the mark directly in the foreign country
 - 2. If the foreign country is a member of the Madrid Protocol, which is an international treaty, then application can be made to the U.S. PTO who, in turn, will submit the application to the World Intellectual Property Organization (WIPO), who will, in turn, submit the application to the foreign country, who will be obligated to register the mark





Trademarks

- Exporters should ALWAYS register their marks in any foreign market to which they are currently exporting or are considering exporting for two reasons:
 - 1. Foreign registration will grant the exporter the exclusive right to use their mark in that foreign market
 - 2. Foreign registration will also prevent anyone else from registering the exporter's mark in the foreign country which otherwise could prevent the exporter from exporting to that market

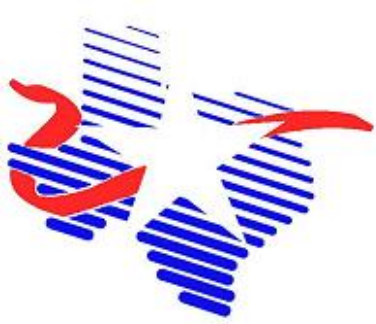




INCOTERMS

- INCOTERMS (International Commercial Terms)
- INCOTERMS are an internationally recognized standard that are used worldwide in international and domestic contracts for the sale of goods and provide internationally accepted definitions and rules of interpretation for most common commercial terms.
- INCOTERMS help traders avoid costly misunderstandings by clarifying the tasks, costs and risks involved in the delivery of goods from sellers to buyers





INCOTERMS

- INCOTERMS are promulgated by the International Chamber of Commerce, a private organization
 - INCOTERMS 2010- <http://www.iccwbo.org/incoterms/>
 - INCOTERMS are not required by the law of any country to be used in an export sales contract
 - INCOTERMS have the force of law in an export sales contract only because the parties have chosen to incorporate them into their contract
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INCOTERMS

- INCOTERMS determine two matters in terms of the exporter (seller) and the importer (buyer) in relation to an export transaction
 1. The delivery obligations of each party in the export transaction
 2. Which party bears the risk of loss or damage to the goods in the export transaction, i.e. when does the risk of loss pass from the exporter to the importer





INCOTERMS

- Easiest way to understand INCOTERMS is to look at the delivery obligations and transfer of risk of loss from three perspectives:
 1. Exporter's Delivery Obligation/Risk of Loss: Exporter's Country
 2. Exporter's Delivery Obligation/Risk of Loss: Importer's Country/Exporter's Country
 3. Exporter's Delivery Obligation/Risk of Loss: Importer's Country
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INCOTERMS

- Exporter's Obligation/Risk of Loss: Exporter's Country
- EXW EX WORKS (...named place)
- FCA FREE CARRIER (...named place)
- FAS FREE ALONGSIDE SHIP (...named port of shipment)
- FOB FREE ON BOARD (...named port of shipment)





INCOTERMS

- Exporter's Obligation/Risk of Loss: Importer's Country/Exporter's Country
- CFR COST AND FREIGHT (...named port of destination)
- CIF COST, INSURANCE AND FREIGHT (...named port of destination)
- CPT CARRIAGE PAID TO (...named place of destination)
- CIP CARRIAGE AND INSURANCE PAID TO (...named place of destination)





INCOTERMS

- Exporter's Obligation/Risk of Loss: Importer's Country
- DAF DELIVERED AT FRONTIER (...named place)
- DES DELIVERED EX SHIP (...named port of destination)
- DEQ DELIVERED EX QUAY (...named port of destination)
- DDU DELIVERED DUTY UNPAID (...named place of destination)
- DDP DELIVERED DUTY PAID (...named place of destination)





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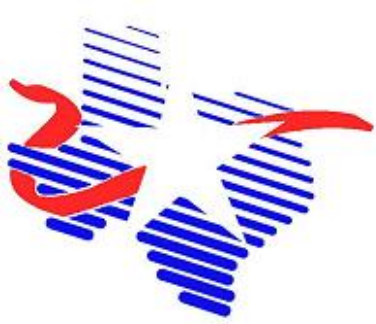
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Non-Tariff Trade Barriers

- NTTBs are issues and constructs created by other countries to impede the flow of exported (American) goods.
 - Creates uneven playing field for competitors with protectionist policies
 - Generally industry-specific
 - Often affected are:
 - Environmental
 - Human Health and Safety
 - Agricultural, and Bioengineering
 - Automobile
 - Estimated that half of world imports are affected
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7 Types of NTTBs

1. Para-tariff measures: customs surcharges, additional charges, internal taxes on imports
 2. Price control measures: anti-dumping, VATs
 3. Finance measures: advance payment requirements, multiple exchange rates, transfer delays
 4. Licensing measures
 5. Quality control measures: quotas, prohibitions
 6. Monopolistic measures: single channel for imports, compulsory national services
 7. Technical measures: regulations, recycling obligations, special customs formalities
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NTTB Examples

- EU subsidizes the aircraft manufacturer Airbus
- China uses sanitary standards to keep out farm imports
- India allows drug patents to be broken
- US imposes 30% duties on steel imports
- US subsidizes farmers
- Semiconductor manufacturers in Singapore pay no income tax
- EU banned beef generated with growth hormones (US and Canada)

WTO works to eliminate these barriers to trade—but you will always see them due to the nature of business.





Country Limitation Schedule (CLS)

Address http://www.exim.gov/tools/country/country_limits.html Go Links

Total Term* is from the date of authorization until final payment - Effective June 23, 2005

"X" Indicates Support is NOT Available

Back to Quick Select	PUBLIC SECTOR			PRIVATE SECTOR			
COUNTRY	Up to 1 Year	1 to 7 Years	Over 7 Years	Up to 1 Year	1 to 7 Years	Over 7 Years	NOTE(S)
Afghanistan	X	X	X	X	X	X	13
Albania							1, 3, 4, 5
Algeria						X	1, 4, 13
Angola		X	X		X	X	11a, 11b, 13
Anguilla							1
Antigua & Barbuda	X	X	X				1, 4, 13
Argentina	X	X	X	X	X	X	13
Armenia			X			X	1, 4, 13
Aruba							1, 9
Australia							
Austria							
Azerbaijan						X	1, 3, 4, 5, 13



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Compliance And
Enforcement

Introduction to Commerce Department Export Controls

Overview

The Bureau of Industry and Security (BIS) is responsible for implementing and enforcing the Export Administration Regulations (EAR), which regulate the export and reexport of most commercial items. We often refer to the items that BIS regulates as "dual-use" - items that have both commercial and military or proliferation applications - but purely commercial items without an obvious military use are also subject to the EAR.

The EAR do not control all goods, services, and technologies. Other U.S. government



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Regional Considerations

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Lists To Check

It is critical to check the parties to your transaction (including freight forwarders, intermediate consignees, and the ultimate consignee) against the most recent *Denied Persons List, Unverified List, Entity List, Specially Designated Nationals List, and the Debarred List*. Although you are only required to make this check for export or reexport transactions, it may also be useful to do so for domestic transactions as well.

[Denied Persons List](#)[Unverified List](#)[Entity List](#)[Specially Designated Nationals List](#)[Debarred List](#)



OFFICE OF FOREIGN ASSETS CONTROL




Office of Foreign Assets Control

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