

Doing International Business

Important Considerations for a Competent Advisor

For Exporters:

- ***International markets*** – is there a demand for your product in the importing country? Is the price available in that country sufficient to cover additional international trade expenses?
- ***Foreign representatives*** – choosing a selling agent abroad that understands your product, company goals and U.S. regulations is critical. You will be liable for any violations of the Foreign Corrupt Practices Act by any person associated with your company in the U.S. or abroad.
- ***Foreign taxes and fees*** – make sure that you clearly understand the correct taxes and fees associated with your product.
- ***Worldwide carrier (e.g. FedEx, UPS) vs. Freight Forwarder*** – Choose appropriate transportation for your commodity and volume. Make sure that they are in compliance with U.S. export laws and foreign import laws. At the same time do not rely on decisions made by your provider; you will be liable for their mistakes.
- ***Know your buyer and all intermediate parties*** – shipping to a “Denied Party” is a violation of U.S. export laws.
- ***Understand U.S. and U.N. Embargoes*** – shipping to an embargoed country is a violation of U.S. and U.N. regulations.
- ***Understand your product*** – exporting products or technology that may have a military application require a license from the Commerce or State Department.
- ***Understand the importing requirements of the foreign country*** – reporting, licenses, and/or special documentation may be required for certain products.
- ***Understand your risk*** – if your product or technology is highly regulated, the risk of diversion into the hands of a denied party remains with you for the life of the product.
- ***Payment structure*** – make sure that appropriate financial processes are in place before exporting your product. Incorrect value determinations may be a violation of number U.S. and foreign laws. Also, insecure payment structures may lead to loss in significant revenue.
- ***Recordkeeping*** – above all good recordkeeping will mitigate inadvertent violations of U.S. export laws.
- ***Legal Assistance*** – if at any time you encounter a suspicious transaction or are approached by a government official seek legal counsel to assist you in dealing with the situation. Exporting is a privilege that can and will be revoked if you do not properly follow U.S. laws!

For International Manufacturers:

- ***Business Model*** – Determining the model works best for your business: third party sourcing, joint venture, wholly-owned foreign enterprise.
- ***Risk Management*** – Structuring your international relationships to manage risks, maximize cash flow and incentivize timely performance.
- ***Factory Selection*** – Key considerations in finding the right fit for your needs.
- ***Quality Control*** – Strategies for ensure that your manufacturing partner meets expectations.
- ***Foreign Representatives*** – How to screen, select and motivate your international team.
- ***Intellectual Property Protection*** – Practical and legal strategies for protecting your intellectual property.
- ***Operational and Tax Efficiencies*** – Structuring your international operations using offshore companies to maximize operational and tax efficiencies.

For Importers:

- ***Principal Party in Interest (PPI)*** – remember if your representative is exporting your goods from a foreign company, you are the PPI in that you receive the primary benefit of the transaction, therefore you are ultimately responsible for compliance with the foreign export laws that the importing countries import laws.
- ***Securing an import Bond*** – make sure that you have an import bond in place before you begin the importation. Specialized products may require up to 3 times the value of estimated duty.
- ***Customs Law*** – incorrect Harmonized Tariff classification of your product and thereby incorrectly paid duties is a violation of U.S. law and can create serious liability for your company.
- ***Antidumping and Countervailing Duties*** – some specialized products from certain countries may require addition duties to be paid.
- ***Free Trade Agreements*** – utilization of on of the U.S.'s five regional or fifteen bilateral free trade agreement can save your company significant money in the payment of duty, however incorrectly stating the country of origin on a FTA certificate is a serious violation of U.S. customs law.
- ***Relying on a Broker or Courier*** – as the importer of record you are responsible for proper clearance of your products through Customs. Make sure your broker has sufficient information to legally clear your shipment.
- ***Audit your entry*** – if the customs broker that cleared your product miss-classified, under valued or paid the incorrect duty, it's your responsible to correct the entry and pay the correct duty. You may also be able to receive a refund if duties were overpaid.
- ***Cost, value & payment*** – it is critically important that your records accurately represent the actual cost paid by the customer, the declared value and the amount received.