EXPORT DOCUMENTATION & COMPLIANCE SOFTWARE

Shipping Solutions
A Division of InterMart, Inc.
1400 Corporate Center Curve, Suite #130
Eagan, MN 55121
651-905-1727
888-890-7447

Export Procedures & Documentation

An In-Depth Guide

A SHIPPING SOLUTIONS® GUIDE

© InterMart®, Inc.
1400 Corporate Center Curve, Suite #130 • Eagan, MN 55121
Phone (651) 905-1727 • Fax (651) 905-1827

Introduction

Twenty-five years ago, it took some effort to become an exporter. Today, primarily due to the internet, you can market your products and services around the globe without even trying. In fact, if your company has a website, you already are!

But just because it's as easy for someone in Tunisia to order your products online as it is for a person in Topeka, it doesn't mean you're ready to be a successful exporter. Being an accidental exporter is easy; being a successful exporter—one who makes money, grows a business, and stays out of trouble—takes some work.

This guide walks you step-by-step through the standard procedures, so you can be a more confident exporter.

Table of Contents

Chapter I. What Is an Export? .... Page 5

Chapter II. Who's Who in Your Export Journey .... Page 18

Chapter III. Incoterms 2020 .... Page 22

Chapter IV. Classifying Your Products for Export .... Page 25

Chapter V. Export Compliance .... Page 29

Chapter VI. Export Documentation Procedures .... Page 38

Chapter VII. Recordkeeping Requirements .... Page 46

Chapter VIII. Technology .... Page 49

Chapter I. What Is an Export?

It’s important to understand the definition of an export. Why? Exports are subject to the various U.S. export regulations that govern the movement of goods, and you can face substantial penalties for violating those regulations.

People are sometimes surprised by how broadly the term applies.

An export is any movement of items outside the country. That includes items sent by regular mail or hand-carried on an airplane; documents transmitted by fax; software or specifications downloaded from the internet; and technology transmitted by email or shared in a phone conversation.

An item is also considered an export even if it is leaving the U.S. temporarily, or if it is being returned to a foreign country. Finally, releasing technology or data to a foreign national located in the U.S. is also “deemed” to be an export.

As you can see, you can be an exporter of a wide variety of items—physical, electronic or even just information. Regardless of what you are exporting, your success depends on creating export procedures tailored to your company that ensure you follow the rules and best practices that will help you maximize your profits and keep you out of trouble.

1. Develop Your Export Strategy

Identify products to sell.

If you have a product that is selling well in the United States, it's not unusual to attempt to sell that same product or products in other markets as well. After all, 95% of the world's consumers are located outside the U.S. And many areas of the world, like Asia, have a rapidly growing middle class.

But limiting your exporting to only your fastest-selling products in the U.S. may be limiting your export potential. Products that may face growing competition in the U.S. or products that are becoming outdated in this country could find new life in other markets that don't have similar competition or need the very latest technology.

Identifying which products you end up exporting depends a great deal on the markets you choose to sell to.

Identify markets to sell to.

Before you can sell and export your products, you need to find people to buy them. Maybe you are already receiving inquiries from potential customers in certain countries. Maybe you've identified logical new markets for your goods.

In either case, you need to spend time learning about these potential new markets. This includes identifying the market potential, learning how to properly (and legally) export your products or services to that market, identifying sales channels and more. Do your research to determine what kind of modifications you may need to make to your product for this market, what the import duty rates are, and whether or not there are any U.S. export restrictions.

Make sure you understand the risk factors in potential new markets. All countries have various levels of risk associated with them. Fortunately, there are many free tools available on the web to make that assessment. Download the free guide that explains this process: *Evaluating Export Markets: How to Assess Country and Customer Risks*.

Your local U.S. Commercial Service office can help with all this market research. You can either visit them in a local office, or you can check out the country guides on the International Trade Administration website.

Identify your strategy for selling.

You can sell directly to end users. If you choose to sell directly to end users, your company is responsible for all aspects of the transaction—shipping, payment, product servicing, etc.—unless you make other arrangements.

If you don't anticipate and include these costs upfront, you may end up with less profit than you were hoping for. *A Basic Guide to Exporting* has helpful information about planning for direct sales, as well as government agencies that can assist you.

You can sell to distributors who purchase goods from you (often at a discount) and resell them for a profit. When working with a foreign distributor, expect to have fewer responsibilities for support and service; the distributor will take care of these aspects, which can be challenging for new exporters. As mentioned above, the U.S. Commercial Service can help you find and select distributors who are reputable and advise you in beginning steps.

You can establish partnerships with local companies. Partners represent a step up from a distributor relationship. In this case, you may find an existing company in your intended foreign market that has a distribution and support system already in place. Partnering with such a company can make entering a new market easier and lessen the cost and pain of setting up infrastructure in another country.

Identify how you will support your products.

In addition to figuring out what you're selling, where you're selling it, and how you plan to sell, you're responsible for planning and implementing the care you provide after the sale.

That includes determining how you will support your products—a critical factor if you want to be a successful exporter with a good reputation. Things to consider include:

- Service
- Technical support
- Warranties
- Returns

International trade makes it more difficult and costly to service, repair or replace damaged goods or items. There are two primary options for providing this support:

- **Require the buyer to return the product.** This is an expensive option. It is also inconvenient for the foreign buyer, who is then saddled with high shipping costs and doesn't get to use your product for an extended amount of time. For more information about facilitating this process, read *Repaired Goods: Import and Re-Export*.

- **Figure out a way to service your product locally.** This is a cost-effective, time-saving option for most exporters. You can hire existing local service facilities or create an office to provide service in-country.

✓ How you handle your service and support could make or break your reputation. Take the time to plan for this in advance, so you don't waste customers' time and try their patience once your export transactions are underway.

Identify any intellectual property concerns.

Many exporters don't realize the importance of protecting and enforcing their intellectual property (IP). When you export, you don't get the benefit of rights granted in the U.S. by patents, trademarks, registrations, copyrights, et al. In a foreign country, these protections may mean little, if anything. If you don't know much about intellectual property protection, you may want to start by reading: *10 Terms Exporters Should Know about Intellectual Property*.

That may mean you need to protect your inventions by filing a patent application in countries in which you plan to do business. Most countries have a first to file system, so you want to file early, perhaps by using a provisional patent application.

You should also re-file your application every time you make a substantive change to your invention during the development cycle. This strategy helps you obtain the broadest possible protection.

For more details about patent protection, read *4 Strategies Exporters Should Use to Protect their Patents Globally.*

Your inventions aren't the only thing you need to protect. Your company trademarks and trade names are an important asset in the global business economy.

In most countries, trademark rights are only obtained by registering that mark with the proper authority in that country. Ideally, you should register your trademarks in every country where you want your mark protected.

Using your trademarks is an important factor in protecting them. By using them, you not only increase the marketing value of the marks, it makes ownership of the marks clear. In most countries, if you don't use a trademark, it can be canceled for non-use.

You also need to be willing to take action against those who infringe on your marks. This is typically done through the courts.

For more information about international trademark protection, read *5 Strategies for Exporters to Protect Their Trademarks Globally.*

The United States Patent and Trademark Office (USPTO) has a number of resources available for domestic and international IP protection on their website.

Decide how to price your products.

Pricing is one of the most difficult challenges for exporters, even experienced ones. According to *A Basic Guide to Exporting*, these 10 questions will help ensure you're setting the best price for your product:

1. At what price does your company sell its product in the United States?
2. What type of marketing positioning—also known as customer perception—does your company want to convey through its pricing structure?
3. Does the price reflect your product's quality?
4. Is the price competitive?
5. What type of discounts and allowances should your company offer foreign customers?
6. Should your prices differ by market segment?

7. What should your firm do about product-line pricing?

8. What options are available if your firm's costs increase or decrease? Is the demand in the foreign market elastic or inelastic?

9. Is the foreign government going to view your prices as reasonable or exploitive?

10. Do the foreign country's anti-dumping laws pose a problem?

Traditionally, determining proper pricing depends on costs, market demand and competition. You'll also want to consider additional costs the importer will incur, including tariffs, customs fees, currency fluctuation, transaction costs and value-added taxes, because they can add to the final price substantially and may even double the U.S. domestic price of your good.

Pricing is a complicated, important aspect of exporting, so make sure you do thorough research to understand how and what to charge. You may also want to consider pricing your exports in the local currency. It can make your goods more competitive, particularly with companies located in other countries.

2. Review and Understand Export and Import Regulations

Make sure you know about any restrictions on exporting your goods from the U.S.

Determining which of your products are subject to export regulations is one of the first, most important steps you'll need to take in the export compliance process. Here are some key things to look out for:

Export license requirements. A relatively small number of exports require a license from either the U.S. Department of Commerce or another U.S. agency like the State Department. Depending on your product's technical characteristics, destination, and end users/end uses, your product may be one of them.

Our guide, *How To Determine If You Need an Export License*, is a must-read resource for new exporters. Once you've done your background research, use our Export Controls Software to find out more about your specific product's requirements.

Embargoed countries are countries you are not allowed to do business with. To avoid them, you need to know which ones they are. You can find out more about embargoed countries and export regulations in these articles: *Six Basic Steps for Export Compliance* and *The Three R's of Export Compliance.*

Restricted parties are individuals, businesses and other organizations that have been identified as engaging in activities related to the proliferation of weapons of mass destruction; are known to be involved in terrorism or drug trafficking; or have had their export privileges suspended.
All exporters should check all the parties in every export transaction against the dozens of denied party screening lists to prevent incurring penalties.

You can use the U.S. International Trade Administration's Consolidated Screening List to do this screening against the U.S. government's largest lists, or utilize a more comprehensive screening tool like Shipping Solutions' Restricted Party Screening Software. You can request a free trial subscription to the software online.

Find out if there are any restrictions on importing your goods in prospective countries.

Just as there may be restrictions on exporting your goods from the United States, there may be limits or prohibitions about importing goods into your chosen market(s). In addition to identifying the correct Harmonized System (HS) number for your products (a number that is used to determine how much duty you must pay for the goods), you need to be aware of other types of import controls for your products, including import licenses and permits, various certificates, absolute and tariff rate quotas, and anti-dumping and countervailing duties.

Research to see if your products qualify for any free trade agreements (FTA).

Depending on where you are exporting your goods and their country of origin, they may be eligible for reduced or no duties upon import. By eliminating the import duties on your products, they become less expensive and more competitive in your chosen markets. You may want to alter how you source some of the parts of your goods to get your goods to qualify for a particular free trade agreement if it will eliminate the import tariff.

The U.S. currently has free trade agreements with 20 countries covered by 14 different treaties. The most widely used agreement is the United States-Mexico-Canada Agreement (USMCA), which replaced the North American Free Trade Agreement, more commonly known as NAFTA.

Each of the 14 different agreements have different rules of origin for determining whether or not your product qualifies under the agreement. It's important to understand how these rules of origin work. Typically, the goods are wholly obtained or produced within one of the countries of the agreement, or they are substantially transformed in one of the countries.

The definition of "wholly obtained or produced" and "substantially transformed" can be very narrowly defined. You should not participate in the free trade agreement unless you are sure—and can prove—that the goods qualify. To learn more, read our free guide, *How to Qualify for a Free Trade Agreement (FTA)*. Even if the goods do qualify, there may be times when it makes sense to opt out and not choose to participate. Read *When Should You Refuse to Complete the USMCA Certificate of Origin* to learn more.

3. Prepare Your Goods for Shipping

Identify partners, like freight forwarders.

Whether you're looking for a new partner or reviewing your relationship with your current freight forwarder, here are seven questions you should think about before taking action:

1. Do I have a specialized product line or type of export?
2. How many ports will I be using for exports?
3. Is automation easy with this partner?
4. What is the broker or freight forwarder's general reputation?
5. Do I need a dedicated account representative?
6. Do we have a written working agreement?
7. Are there warning signs about the freight forwarder you might choose?

   The answers to your questions about freight forwarders will help you identify if your relationship is as functional and profitable as it could be. For more questions to ask, read *4 Things the Best Freight Forwarders Have in Common*.

Understand Incoterms.

One of the first things to confuse new exporters is the difference in the type of trade terms that are commonly used in international trade versus domestic sales. While most companies use a variant of FOB as the trade term of choice within the U.S., there are currently 11 different trade terms, called Incoterms 2020, that are used internationally.

While using Incoterms for your export sale is voluntary, they are globally accepted and provide a shorthand outlining when the risk and responsibility for the goods transfers from the seller to the buyer. They don't, however, say anything about the price of the goods, the method of payment or when the title of the goods passes. Most importantly, they don't replace the need for a sales contract.

We've written extensively about Incoterms:

- *An Introduction to Incoterms*
- *Incoterms 2020: Here's What's New*
- *The Incoterms 2020 Chart of Responsibilities (Infographic)*

Understand product labeling requirements in your destination country.

Here are a few things you need to consider:

- Does the country legally require using specific language?
- Do the product content and country of origin need to be included?
- Are weights and measurements stated in the local units?
- Do items need to be labeled individually?

Pack your goods.

Losses from improperly packed containers add up to $5 billion a year worldwide. That's a pretty good reason new exporters should make sure they're avoiding potential problems when they prepare their export shipping crates.

In *The Art and Science of Packing a Shipping Container*, we offer several tips that can help make sure your goods and containers are prepared for the journey ahead. You can also download a free export packing list to help you in your export process.

Understand and correctly apply hazmat requirements, if appropriate.

Depending on what you're exporting, you may need to apply certain hazmat requirements. The regulations for shipping hazardous materials and dangerous goods are complicated, which you can learn about here. However, the most important step you can take when dealing with hazardous materials is to make sure you and the employees who will be dealing with these goods are thoroughly trained and knowledgeable about the regulations.

Our free webinar, *An Introduction to Shipping Dangerous Goods*, is a must-watch for anyone who currently ships or plans to start shipping dangerous goods. Additionally, companies like CARGOpak can help you get effective hazmat and dangerous goods training through on-site DOT Hazardous Materials (hazmat) compliance training classes and seminars.

Make carrier choices.

New exporters need to decide what methods they are going to use to get their goods to their destinations—air, ship, rail, road or a combination. Just as with freight forwarders, make sure you're asking questions, not just partnering with the first company you meet. What you think may be the most inexpensive, efficient way to carry your exports may not be. Explore all your options to find the most economical and efficient combination.

Understand insurance requirements.

Insurance is an important, necessary protection for U.S. exporters. *A Basic Guide to Exporting* covers the options available and the information you need to know to purchase insurance. You should also consult with international insurance carriers or freight forwarders for more information about your specific goods.

4. Complete Your Export Paperwork

Once you've completed all of the above steps, you've still got a way to go—you now need to fill out the documentation and supporting paperwork that will accompany your goods on their export journey. This is crucial to your success, because any errors (even simple typos) in your paperwork could delay shipments and your payday.

Depending on what, how and where you're exporting, you need to prepare several different export forms. The free *Beginner's Guide to Export Forms* explains more than 20 of the most common export forms and the typical information required on each. In addition, you can download PDF samples of the export documents from the Shipping Solutions website.

It's important that you create accurate export forms, or else your goods could get stuck in customs, you may have difficulty getting paid on time, and you could be violating export and import regulations, which could result in fines or other penalties. These problems often occur because you have entered inconsistent information on the documents.

Shipping Solutions export documentation software makes it quick and easy to create accurate export documents by eliminating redundant data entry, properly formatting the correct information on each of the forms, and ensuring consistent information. You can watch a 10-minute video of how Shipping Solutions works, or you can register for a free, private demo of the software.

5. Make Sure You Get Paid

Arguably the most important part of being an exporter is getting paid for your goods. To make sure you get paid, you need to find an international banking partner and understand your payment options. It may help to start by reviewing the *10 Terms You Need to Know to Help You Get Paid for Your Exports*.

Find an international banking partner.

Interview several bankers from multiple banks. You're looking for someone you feel comfortable with, someone with whom you have a good rapport, and someone you can trust.

Make sure your bank can help you. The bank you choose should do more than provide guidance in getting paid; it should also help you assess creditworthiness and guide you on the best payment methods for your particular situation.

Your bankers need to know the details about each type of document and supporting information you need to facilitate a smooth letter of credit. They should also know the sticking points regarding letters of credit and any other payment type, and be able to advise you regarding the best payment methods for your exports.

Understand your payment options.

There are a variety of ways you can structure an international sale and different options for getting paid. The five most common methods of payment in international trade are consignment, open account, documentary collections, letters of credit and cash in advance.

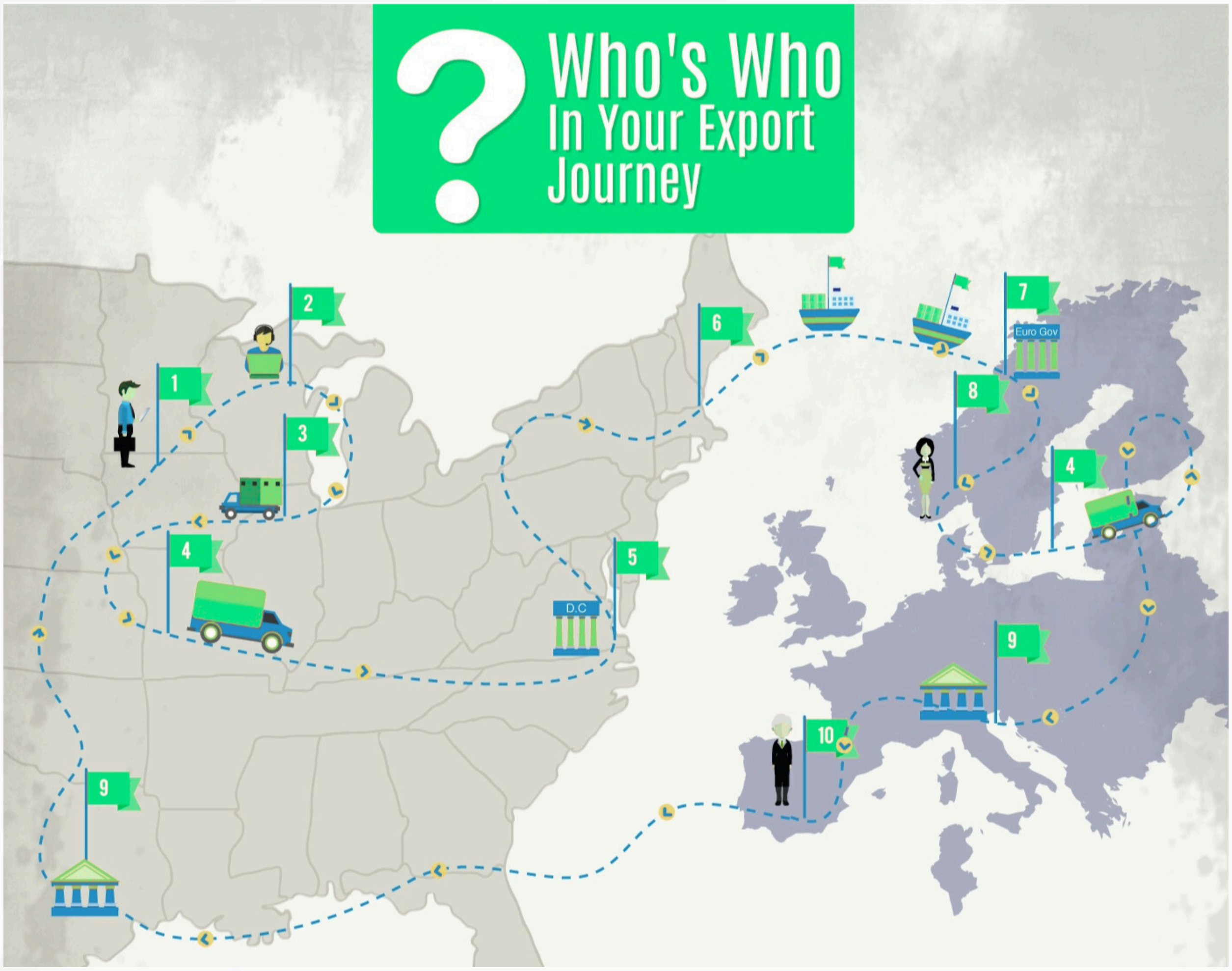
The Export-Import Bank of the United States has published the *Trade Finance Guide*, which outlines the advantages and risks for each of the five common payment options. In addition, it details the financing options available to exporters through the bank.

Do the Work Now, and You'll Worry Less Later

For new exporters, it's easy to be so excited to get started that you skim over details and get penalized.

✓ However, by taking care of the above five things up front, you'll have much less to worry about down the road. By taking the time to understand terms, regulations, procedures and processes, you stand a greater chance at becoming a successful exporter.

Chapter II.



Before you can take the proper export procedure steps, you need to understand who is involved in the export process. This chart can help.

1. Exporter (that's you!)

You've got the goods, and you're ready to get started exporting. It's time to get the goods to the buyer. Let's go!

2. Your Shipping Department

You’ve got a lot of paperwork to get done before your goods can go anywhere. Depending on what you’re sending, you may need to fill out:

- A commercial invoice
- A packing list
- Some type of Certificate of Origin form
- One or more Bills of Lading
- Other forms as necessary

In addition, you may need to send your export information electronically to the U.S. Census Bureau through the Automated Export System (AES). Instead of wasting time and money doing all of this by hand, Shipping Solutions software helps you complete your documents quickly and accurately.

3. Freight Forwarder

Think of the freight forwarder as a travel agent for your freight. The freight forwarder will arrange transportation of your goods, pack them, take them to a warehouse to store until shipment and send them along on their journey. A freight forwarder can also provide assistance with insuring your goods against loss or damage. If you don't have the time or inclination to do it yourself, your freight forwarder can file through AES for you. You should include a Shipper's Letter of Instruction (SLI) in your documentation for the forwarder. The buyer and seller can agree to use one or more freight forwarders to arrange all legs of the shipment, and either party can contract and pay them.

4. Inland Carrier

Your inland carrier is the truck or carrier company that picks up the goods and transports them to and from the warehouses and ports on both sides of the journey. The inland bill of lading form is required for this part of the journey.

5. U.S. Departments of Commerce, State, Treasury and Other Agencies

There are numerous regulations published by several different government agencies that may apply to your export shipments. In addition to documentary requirements, you need to determine if your goods require export licenses before they ship and whether or not your customer and their agents appear on any or the various Denied Parties Lists or people with whom you can't do business. Shipping Solutions software helps ensure you stay compliant with these export regulations.

6. International Carrier

The international carrier can be a truck, train, ship or plane. The corresponding bill of lading is a contract to move the goods to another country. Your freight forwarder will likely arrange for the shipment and prepare the bill of lading for you.

7. Foreign Customs Agency

Regulations vary depending on where in the world you're exporting goods, so make sure you're following import regulations, too. Plan for this step in advance so you can get paid on time.

8. Intermediate Consignee

When your goods reach the port or import, an intermediate consignee may take legal possession of the goods to clear the goods through customs and ensure they get set for their journey to their final destination.

9. Banks

You will likely deal with at least a couple banks in different locations as part of your export journey. Depending on the method or payment and term of sale, the banks will arrange for wire transfers and currency conversions. If the payment depends on exchange or certain documents, the bank will control the documents and initiate the payment process when the requirements have been satisfied. In order to get paid on time, you may need to submit different export documents to satisfy the terms and conditions if the buyer's bank issued a letter or credit. The payment term you use will ultimately determine when you get paid in this journey.

10. The Buyer/Importer

Hooray! Once you or your bank has made the documents available to them, your importer will take possession of the goods. This person can also be the Foreign Principal Party in Interest (FPPI) or the Ultimate Consignee.

Conclusion

This is a basic overview; depending on the specifics, your journey may have other parties involved, including:

- The producer of goods.
- The U.S. Principal Party in Interest (USSPI) who is probably you, the exporter, but could be a third party who is gaining benefit from your export shipment.
- A bill-to party who is paying for the goods and might be different from the importer or ultimate consignee.

You can find out more about the documents required in an export journey on our website. In addition, the Shipping Solutions blog, Passages, has hundreds of articles, videos and guides that can help you navigate through many of the large and small issues exporters face.

✓ In addition to the people involved, there are a wide variety of terms that relate To the process of moving goods through a supply chain. Understanding the different types of shipments and related terms is crucial to ensure your goods get shipped on-time, within compliance, and in good shape. To learn what each term means, download our Glossary of International Shipping Terms.

Chapter III. Incoterms 2020

Incoterms® 2020 Rules
Chart of Responsibilities and Transfer of Risk

	Any Transit Mode		Sea/Inland Waterway Transport				Any Transport Mode				
	EXW	FCA	FAS	FOB	CFR	CIF	CPT	CIP	DAP	DPU	DDP
	Ex Works	Free Carrier	Free Alongside Ship	Free On Board	Cost & Freight	Cost Insurance & Freight	Carriage Paid To	Carriage Insurance Paid To	Delivered at Place	Delivered at Place Unloaded	Delivered Duty Paid
Transfer of Risk	At Buyer's Disposal	On Buyer's Transport	Alongside Ship	On Board Vessel	On Board Vessel	On Board Vessel	At Carrier	At Carrier	At Named Place	At Named Place Unloaded	At Named Place
Charges/Fees											
Packaging	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Loading Charges	Buyer	Seller*	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Delivery to Port/ Place	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Export Duty, Taxes & Security Clearance	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Origin Terminal Charges	Buyer	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Loading on Carriage	Buyer	Buyer	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Carriage Charges	Buyer	Buyer	Buyer	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Insurance						Seller		Seller			
Destination Terminal Charges	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer**	Buyer**	Seller	Seller	Seller
Delivery to Destination	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Seller	Seller	Seller
Import Duty, Taxes & Security Clearance	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Seller

SHIPPING SOLUTIONS® Export Documentation and Compliance Software
1.888.890.7447 www.shippingsolutions.com info@shipsolutions.com
This chart is designed to provide a basic level of understanding of Incoterms® 2020 Rules published by the International Chamber of Commerce (ICC). For a more detailed explaination, visit the ICC website.

* Seller is responsible if term is FCA at seller's facility.
** If seller incurs costs under its contract of carriage, seller cannot recover the costs from the buyer without buyer's agreement.

Download your copy of this Incoterms 2020 Chart of Responsibilities here.

What are Incoterms?

The majority of U.S. companies are familiar with the domestic shipping terms identified by the U.S. Commercial Code, which are often a variation of FOB. But these terms aren't valid for your international shipments, because most of the world relies on a set of shipping terms called Incoterms.

The most current set of those terms, Incoterms 2020 rules, were published by the International Chamber of Commerce. They are the voluntary, authoritative, globally accepted, and adhered-to rules for determining the responsibilities of buyers and sellers for the delivery of goods under sales contracts for international trade.

Incoterms 2020 rules identify when the responsibilities for the goods transfer from the seller to the buyer, as well as when the liability for the goods transfers. Under specific Incoterms 2020 rules, these can happen at different points in the journey.

For example, under the Incoterms 2020 rule Carriage Paid To (CPT), the seller is required to arrange and pay for the cost of delivering the goods to a designated location on the buyer's side of the international transport, but liability for the goods passes to the buyer when the goods are made available to the carrier before the international journey takes place.

Incoterms rules are only a portion of an export sales contract. They don't say anything about the price to be paid or the method of payment. Furthermore, Incoterms don't deal with the transfer of ownership of the goods, breach of contract, or product liability; all these issues need to be considered in the contract of sale. Also, Incoterms can't override any mandatory laws.

List of Incoterms 2020 Rules

Because each of the Incoterms rules identifies the responsibilities of the seller and the buyer in the transaction at different points in the shipping journey, certain Incoterms work better for certain modes of transport.

Incoterms 2020 rules that apply to any mode of transport are:

- EXW (Ex Works)
- FCA (Free Carrier)
- CPT (Carriage Paid To)
- CIP (Carriage and Insurance Paid To)
- DAP (Delivered at Place)
- DPU (Delivered at Place Unloaded)
- DDP (Delivered Duty Paid)

Incoterms 2020 rules that apply to sea and inland waterway transport only:

- FAS (Free Alongside Ship)
- FOB (Free on Board)

- CFR (Cost and Freight)
- CIF (Cost, Insurance, and Freight)

Resources

- An Introduction to Incoterms
- Free webinar: Incoterms 2020 In Practice
- Incoterms 2020 Chart of Responsibilities

Chapter IV. Classifying Your Products for Export

Product Classification for Customs Purposes

People who are new to international trade are sometimes confused by the different but similar sounding types of product classification, the frequency with which people use the names of the different types of classification systems interchangeably, and the fact that they sometimes see six-digit classification numbers and other times 10-digit numbers.

Harmonized System (HS) Codes

- Administered by the World Customs Organization, HS codes are used around the world as the basis for customs tariffs and international trade statistics.

- HS codes include six digits. Most countries add additional digits to the HS codes to further distinguish products in certain categories. These additional digits are typically different in every country.

- The six-digit HS codes are usually included on international paperwork like commercial invoices because they are accurate in both the country of export and country of import.

- The HS codes are usually updated every five or six years.

Harmonized Tariff Schedule (HTS) Codes

- The Harmonized Tariff Schedule of the United States (HTSUS) is the 10-digit import classification system specific to the United States. The first six digits match the corresponding HS code.

- HTS codes are administered by the U.S. International Trade Commission.

- Under the U.S. Customs Modernization Act, it is the responsibility of the U.S. importer to properly classify their goods.

- Portions of the HTSUS are updated annually with occasional updates midyear. Companies should expect more extensive updates to HTSUS codes in years when the HS codes are also updated.

Schedule B Codes

- The Schedule B is the 10-digit export classification system of the U.S. The first six digits match the corresponding HTS code.

- The Schedule B codes are administered by the U.S. Census Bureau and are used to collect and publish U.S. export statistics.

- Under the U.S. Foreign Trade Regulations, exporters are required in most circumstances to identify and report the correct Schedule B code of their goods through the Automated Export System (AES).

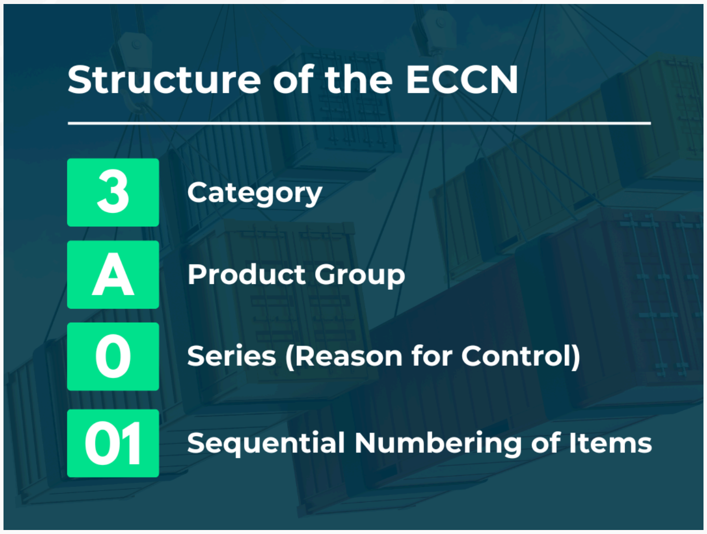
- Portions of the Schedule B codes are updated annually with occasional updates midyear.

Resources

- An Exporter's Guide to Product Classification
- Free Trial: Product Classification Software
- The Harmonized Tariff Schedule: Beyond the General Rules of Interpretation
- Doing It by the Book: Classifying Your Goods for International Trade
- Who's Responsible for Classifying Your Products for Import and Export?

Product Classification for Export Controls: ECCN and USML (and Sometimes HTS and Schedule B)

There are two specific classification types that deal with export compliance: Export Control Classification Number (ECCN) and U.S. Munitions List (USML). Until recently, HTS and Schedule B codes were not used for export control purposes. However, now there is an exception. In 2024, BIS announced new Russian Industry Sector Sanctions that are unique in that they are based on Schedule B codes and Harmonized Tariff Schedule (HTS) codes instead of ECNs. BIS added controls on more than 500 6-digit HTS codes, covering 22 entire 2-digit chapters. This means that a wide array of goods that previously may not have been subject to stringent export controls now require a license when destined for Russia or Belarus. Read *Exporters Beware: New Russia Sanctions Based On Schedule B and HTS Codes* to learn more and to determine if your goods are included.



Most goods fall under the jurisdiction of the U.S. Commerce Department's Bureau of Industry and Security (BIS) and the Export Administration Regulations (EAR). Items designed for military use most likely fall under the jurisdiction of the U.S. State Department's Directorate of Defense Controls (DDTC) and the International Traffic in Arms Regulations (ITAR). See Chapter V for more details.

Only a small percentage of exports under BIS's jurisdiction require an export license, as determined by the product's technical characteristics, the destination country, the end user, and a product's end use.

Commercial items that fall under the jurisdiction of the EAR may have an ECCN code if it is considered to be a dual-use item. Dual-use items are those goods that may be designed for commercial use but the government has decided could be used for military or terrorist purposes.

Most commercial items don’t have an ECCN. However, the only sure way to know is to check the [Commerce Control List (CCL)] in the EAR.

The ECCN is an alphanumeric classification found in the CCL. ECCNs specifically identify items that are subject to U.S. export control regulations, and may require an export license.

Goods that are traded at high volumes worldwide are generally not controlled.

The first step for deciding whether or not a product requires an export license is to check the EAR. If a product has a specific ECCN, the EAR will also list one or more reasons why it is controlled. Companies use these reasons to help them determine if they need to apply for an export license based on the countries to which they are exporting.

You can search for an ECCN code in a printed copy of the EAR or online at the BIS website. In addition, Shipping Solutions Product Classification Software allows you to search for the correct ECCN code by typing in a short description of your products.

Products that do not have an ECCN code and are not subject to control by any other U.S. agency are designated as EAR99. Products classified as EAR99 are low-technology consumer goods and usually do not require an export license. However, even EAR99 items require licenses for exporting to embargoed countries, to a restricted party or in support of a prohibited end use.

As mentioned above, weapons and other defense-related items that fall under the jurisdiction of the ITAR use the USML to classify the goods.

In simplest terms, the USML is a list of defense articles and services that:

- Are specifically designed, developed, configured, adapted or modified for a military application and don’t have a predominant civil application or civil performance equivalent.

- Have significant military or intelligence applicability.

- Could be classified as a defense article or defense service.

Chapter V. Export Compliance

Who Has Jurisdiction over Your Exports?

The first step in the export compliance process—determining who has jurisdiction over your exports—will determine whether the rest of the process goes smoothly. A misstep here could very well lead to severe fines, loss of export privileges and even land you in jail.

Before you dive deep into the Commerce Department's Export Administration Regulations (EAR) or the State Department's International Traffic in Arms Regulations (ITAR), you should know which set of regulations you need to be concerned with and which agency's guidelines you must follow. The jurisdiction sets the stage for the actions you can and can't take, and determines what type of export restrictions or licensing requirements you may face.

Here's how to get started:

1. Check ITAR to see if your product is on the U.S. Munitions List (USML).

The Directorate of Defense Trade Controls (DDTC) has a decision tool that can help exporters identify the steps they need to follow when reviewing the U.S. Munitions List (USML). This decision tool will help you classify items that are subject to ITAR. You can check the USML online.

If your item or product is on the USML, the State Department has jurisdiction over your export. Your company must be registered with the State Department, and you must apply for an export license through the State Department.

2. Check EAR to see if your product is on the Commerce Control List.

If you don't see your product on the USML, then it may be under the jurisdiction of the U.S. Department of Commerce's Bureau of Industry and Security (BIS); these items require EAR classification prior to export.

EAR classification is the exercise of understanding where a product falls in the Commerce Control List (CCL). The CCL describes "dual-use" items (items that may be used for both commercial and military purposes). A classification will determine whether an export license is required based on the destination of the product.

It is important to note that items for purchase off-the-shelf, directly from a manufacturer, or by any other commercial means may be controlled under the EAR. Likewise, imported items (notwithstanding foreign origin) could likewise be subject to EAR restrictions upon export out of the country.

You can use the BIS's interactive export control classification tool, the CCL Order of Review, to help you classify items that are subject to the EAR.

3. If your product is not on any of these lists, it's EAR99.

Items subject to the EAR that are not elsewhere specified are designated by the number EAR99. These products can still be controlled because of end use, end user and destination controls.

Getting Help with Determining Jurisdiction

Self-classification is an important responsibility that you can't take lightly. If you have any questions or doubts, apply for a commodity jurisdiction request to help you understand jurisdiction.

Commodity jurisdiction requests are processed by DDTC. To submit a request, fill out the commodity jurisdiction form on the DDTC website. You can also find contact information and answers to common questions there.

You Can't Afford a Misstep

From the Gil Rosen Law blog:

> *Making mistakes can be very costly for a business and is likely to result in criminal offenses. Unless a business is absolutely certain of its determinations, the business would be advised to submit an application to DDTC to determine the jurisdiction of the item. This kind of application is known as a commodity jurisdiction and DDTC has stated that seeking and receiving a commodity jurisdiction determination is the only way to obtain legal certainty of the jurisdictional status of an item and thereby reduces the risk of civil and criminal penalties for noncompliance.*

✓ Determining who has jurisdiction over your goods is the first—and most important—step you can take in your export journey. Even if you think jurisdiction is obvious, it could be very dangerous to make an assumption and be wrong.

Like all good compliance programs, your decision-making process should be documented. This demonstrates your due diligence, so if something goes wrong, you can prove you made an effort to try to comply with the regulations.

Export Controls

Export compliance regulations don't just apply to the big guys. Even the smallest U.S. businesses that send their products to customers outside the country are subject to a variety of export regulations and could face substantial penalties for violating these rules. Unfortunately for many small and medium-sized businesses, company personnel may not know about these requirements until it's too late.

According to BIS, fines for export violations can reach up to $1 million per violation in criminal cases, while administrative cases can result in a penalty amounting to $300,000 or twice the value of the transaction, whichever is greater. In addition, criminal violators may be sentenced to prison for up to 20 years, and administrative penalties may include denial of export privileges.

Penalties of this size and nature can be especially devastating to small and medium-sized businesses, which represent 97% of the approximately 300,000 U.S. companies that export, according to U.S. Census Bureau statistics. Small and medium-sized businesses may think they lack the time or money to train personnel in export regulations, and downplay the necessity of compliance screening. Even if they do have the necessary experience and training, export personnel may not have the support of senior management, who are often totally unaware of U.S. export regulations.

BIS has published a book, *[Don't Let This Happen to You](#)*, which outlines exporters' compliance responsibilities and includes real-life examples of penalties they have recently issued against individuals and businesses.

Protecting Your Business against Export Violations

Businesses that are already exporting or planning to start exporting need to follow some basic steps to ensure they comply with U.S. export regulations. While the following six steps are by no means all-inclusive, they should provide companies with a starting point for implementing an export compliance plan.

1. Properly classify your products.

Most exporters are familiar with the Harmonized System (HS) or Schedule B codes used to classify products for duty, quota and statistical purposes. However, exporters are often less aware of the requirement that they determine whether or not their products are controlled for export by the Department of Commerce or the Department of State.

2. Determine if the destination country requires an export license.

There are several reasons the U.S. government prevents exports to certain countries without an export license. In the most extreme cases, the U.S. has placed embargoes on countries like Iran and Syria for supporting terrorist activities. In other cases, the U.S. restricts companies and individuals from exporting certain products to specific countries for reasons of national security, nuclear nonproliferation, chemical and biological weapons or one of several other reasons outlined in the EAR.

Companies must use the ECCN codes and reasons for control described above to determine whether or not there are any restrictions for exporting their products to specific countries. Once they know why their products are controlled, exporters should refer to the Commerce Country Chart in the EAR to determine if a license is required.

If the CCL indicates that an export license is required, companies should check the ECCN in the EAR to see if a license exception may be available. For example, a Low Value exception may mean you don't need to apply for an export license if the value of the export is below a certain threshold. For more information about license exceptions, refer to the article, *What You Need to Know about Export License Exceptions*.

Virtually all exports—and many re-exports—to embargoed destinations and countries designated as supporting terrorist activities require a license. These countries include Cuba, Iran, North Korea, Sudan and Syria. Part 746 of the EAR describes embargoed destinations and refers to certain additional controls imposed by the Office of Foreign Assets Control (OFAC) of the Treasury Department.

Exports to Russia have also been heavily restricted since 2022 due to its invasion of Ukraine. U.S. exporters must carefully review the EAR and OFAC regulations, as most exports to Russia require a license, and many products are outright prohibited. Restrictions focus on dual-use items, advanced technology and sectors critical to Russia's economy and military capabilities. Exporters should check both the Commerce Department's Entity List and OFAC's Specially Designated Nationals (SDN) List for restricted parties involved in transactions with Russia.

Shipping Solutions Professional export documentation and compliance software includes an Export Compliance Module that tells you if an export license is required or a license exception is available based on the product's ECCN code and the destination country. If indicated, companies must apply to BIS for an export license through the online Simplified Network Application Process—Redesign (SNAP-R) before they can export their products.

3. Screen all parties in your export transaction.

The U.S. government, as well as several other governments and organizations like the United Nations and the European Union, publish lists of restricted parties to whom you can't export without a license. That includes items that are EAR99 or otherwise don't require an export license based on the country of export.

These restricted parties are individuals, businesses and other organizations that have been identified as engaging in activities related to the proliferation of weapons of mass destruction, known to be involved in terrorism or drug trafficking, or who have had their export privileges suspended. These individuals, businesses or organizations could be located within the U.S.

While there is no requirement that companies check every export against these various restricted party lists, it is a violation of export regulations to export to anyone on the U.S. lists.

✓ Even the smallest exporters should check all the parties in every export transaction against the various restricted party lists to prevent penalties.

Rather than manually checking each of the individual lists, Shipping Solutions Professional software's Export Compliance Module allows you to quickly and easily check all the parties in your export transactions against a consolidated list of denied parties.

4. Watch for red flags: Know how your product will be used.

Even products that seem harmless can sometimes be used in unintended ways. Companies are responsible for knowing how their products will be used once they leave the country. Some of these end uses are prohibited while others may require an export license. For example, companies may not export to certain entities involved in the proliferation of weapons of mass destruction (e.g., nuclear, biological, chemical) and the missiles to deliver them without specific authorization, no matter what the items are.

BIS publishes a list of red flags that could indicate a product may be destined for a prohibited use. For example, companies should be reasonably suspicious when orders are inconsistent with the needs of the purchaser; when a customer declines installation and testing that is included in the sales price or is normally requested; or when requests for equipment configurations are incompatible with the stated destination.

Additionally, BIS sometimes notifies companies about foreign parties of concern through red-flag letters. For example, in March 2024, BIS warned certain companies about foreign parties diverting Common High-Priority List (CHPL) items to Russia. These letters provide additional guidance on identifying red flags and conducting due diligence, such as denying or delaying orders to specific parties until further consultation with BIS. Companies receiving these notifications should exercise heightened scrutiny and take proactive steps to prevent unauthorized exports.

A notable example of diversion risk involved a South African businessman who ordered several dozen replacement switches for a medical imaging machine. It's normal to order one replacement switch; it's not normal to order several dozen at once. It turns out these switches were going to be used as detonators for nuclear bombs. If suspicion has been raised, a company should refrain from carrying out the transaction until an export license application has been submitted to and issued by BIS.

5. Be aware of deemed exports.

The export restrictions outlined in the EAR don't just apply to products being shipped outside the U.S. Companies are exporting technology simply by sharing technical data, such as plans and blueprints of products, or by allowing a visual inspection of a product to foreign nationals within the U.S. This is called a deemed export, for which companies must follow the same procedures outlined in steps #1 through #4 above. In addition, in September 2024, BIS released an additional set of recommendations to follow when applying for an export license for a deemed export—read about them here.

6. Understand document compliance.

When small and medium-sized businesses become aware of their legal obligations as exporters, often their first reaction is to try to avoid these responsibilities by hiring a freight forwarder or another party to handle their exports. While there is absolutely nothing wrong with outsourcing the export functions, companies must realize they cannot outsource their liabilities.

Companies that hire third parties to manage their exports should require documentation that all export regulations are being followed, and retain copies of this documentation—as well as the actual export forms that must be generated for each shipment—onsite for at least five years and up to 10 years after the Treasury Department's Office of Foreign Asset Controls (OFAC) changed its recordkeeping requirement from five to 10 years in 2024. This documentation can be used to demonstrate compliance with the EAR or, in case violations are found by the U.S. government, be used as evidence of a good-faith effort to comply, which could result in reduced penalties.

Implementing Export Compliance Procedures

Companies of all sizes need to be aware of their responsibilities as exporters. This section focuses on some basic steps that all export companies and their personnel should know, follow and document. It should serve as a starting point for creating a more comprehensive, written export compliance plan.

> ✓ For any plan to be effective, it must be endorsed by top management personnel and shared with all employees involved in the export process—from managers to sales and administrative personnel to the warehouse team.

Such an effort can save companies thousands—if not hundreds of thousands or even millions of dollars—in fines, avoid restrictions on exporting, and even prevent jail time for the most serious violations.

To help create an effective export compliance program, BIS sponsors a variety of seminars across the U.S. In addition, companies like International Business Training offer a variety of books, webinars and seminars on export rules and procedures.

Export Compliance Programs

Most exporters never plan on doing something wrong in the eyes of the law. However, mistakes do happen, and the consequences can sometimes be devastating. Companies can face fines, lose their export privileges, and, in the most egregious cases, see people go to jail. A properly implemented Export Compliance Program (ECP) will help alleviate that risk.

- A comprehensive Export Compliance Program reduces the chance of violating export regulations.

- An Export Compliance Program gives you a clear plan of how to audit your company's procedures and processes yourself, so you can identify and address any potential violations before they even surface.

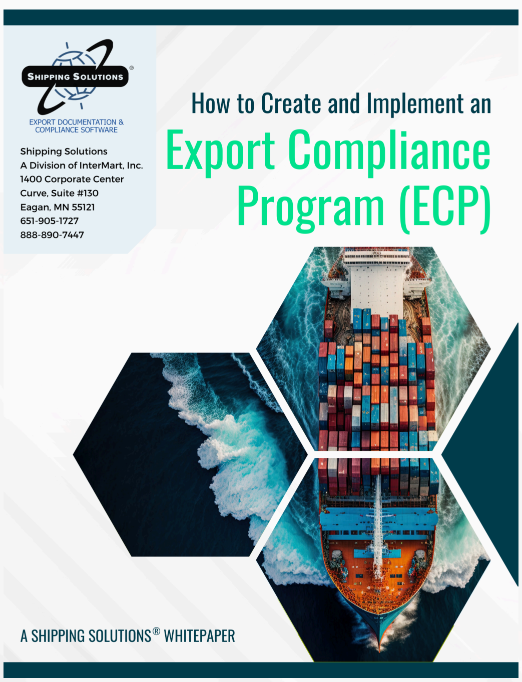
- A well-written Export Compliance Program can substantially reduce penalties if your company violates export regulations, as long as you can document that you regularly follow the written ECP procedures. The BIS considers that a strong mitigating factor when determining penalties.

According to BIS, "An Export Compliance Program analyzes pieces of information and individual decisions and builds them into an organized, integrated system. It is a program that can be established to manage export-related decisions and transactions to ensure compliance with the EAR."

9 Key Elements of an Export Compliance Program

An effective Export Compliance Program includes nine elements:

1. Management commitment.
2. Continuous risk assessment of the export program.
3. Formal written export management and compliance program.
4. Ongoing compliance training and awareness.
5. Pre- and post-export compliance security and screening.
6. Adherence to recordkeeping regulatory requirements.
7. Internal and external compliance monitoring and periodic audits.
8. A program for handling compliance problems, including reporting export violations.
9. Appropriate corrective actions in response to export violations.



Creating Your ECP

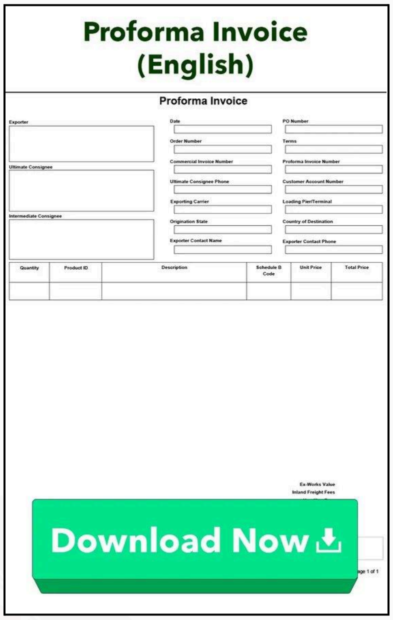
Creating an ECP for your company does require some work, but it is absolutely worth it for the health of your company. We detail the entire process in our guide, *How to Create and Implement an Export Compliance Program*.

Chapter VI. Export Documentation Procedures

To ensure the timely movement of your goods, it's important that you accurately complete a set of export documents. These documents will make sure the people transporting your goods know where they are going. The forms will help you clear your goods through customs in a timely manner and without unexpected fees, and they will make sure you get paid on time.

Here are eight common export documents that may be required for your international shipments:

1. Proforma Invoice



In a typical international sale, the process usually begins with a request from the buyer. Rather than providing a standard quotation form like you may use for your domestic sales, you should reply with a proforma invoice. Your potential new customer may need a proforma invoice to arrange for financing, open a letter of credit or apply for an export license. If completed properly, a proforma invoice will look a lot like your final commercial invoice.

[Download a Free Template for a Proforma Invoice]

2. Commercial Invoice

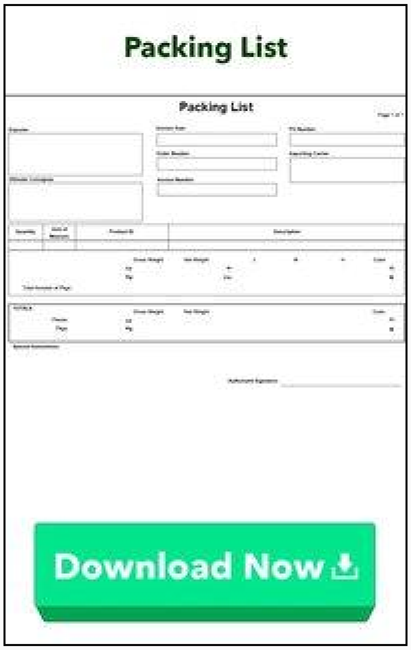
Once your international buyer accepts the terms on the proforma invoice and places their order, you need to prepare your goods for shipping, including the paperwork required to accompany the goods. [The commercial invoice includes most of the details of the entire export transaction]().

The commercial invoices you prepare for your export shipment will probably include a lot more detail than the invoices you create from your accounting system for your domestic orders. It needs to include a lot of the details discussed in earlier chapters of this guide, including Incoterms 2020; the proper product classifications; export license requirements, if any; and letter of credit or other banking information you need to get paid.

See *[Export Invoice vs. Accounting Invoice: What's the Difference?]()* to learn more.

[Download a Free Template for a Commercial Invoice]()

3. Packing List



An export packing list may include more details than a packing slip you create for your domestic shipments.

- Your freight forwarder may use the information to create the necessary bills of lading.
- Your bank may require a detailed packing list to fulfill the requirements for a letter of credit.
- Customs officials in the U.S. and the destination country may need it to review certain items in your shipment.

See also, *[The Importance of an Export Packing List for Your International Shipments.]()*

[Download a Free Template for a Packing List]()

4. Certificate of Origin

Some countries require a certificate of origin to identify the appropriate duty rates to apply to the goods upon import clearance. These certificates of origin usually require a seal from a chamber of commerce in the originating country.

An increasing number of companies are foregoing the time and expense of hand-delivering their certificates to a chamber and are relying on electronic certificates of origin (eCO) for their exports. An eCO is faster and less expensive to obtain, allows for the option of delivering them electronically to the importer, and are registered with the International Chamber of Commerce—the same body that publishes the Incoterms rules—to provide added credibility with various customs authorities.

Register for our eCO Service here—it's free!

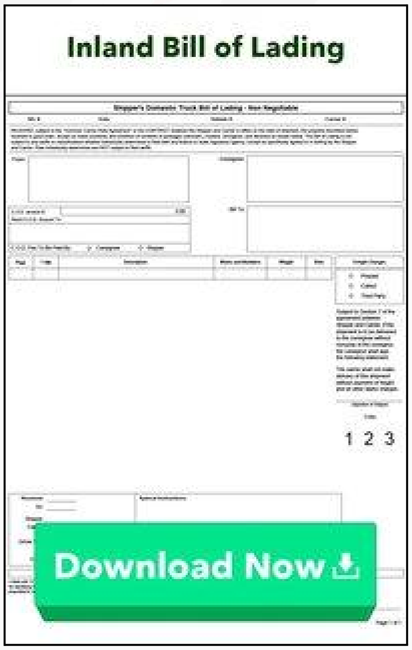
In addition to the generic certificate of origin, there are also country-specific certificates of origin used to identify goods that are eligible for free or reduced duty rates under the free-trade agreements negotiated by the United States. The U.S. currently has signed 14 free trade agreements with 20 different countries. Visit the Certificates of Origin page for more details about the various certificates.

4. Shipper's Letter of Instruction

Your freight forwarder is an important partner in your export shipments. They typically arrange the transport of your goods with the carrier and help ensure you've taken care of all details. The shipper's letter of instruction (SLI) form contains the details of your shipment that the forwarder will use to successfully move your goods. It may also grant the forwarder a limited power of attorney to work on your behalf and, if you prefer, to file the Electronic Export Information (EEI) through the Automated Export System (AES) on the Customs and Border Protection's Automated Commercial Environment (ACE) portal.

Download a Free SLI Template

6. Bills of Lading



There are three common bills of lading that may be required for your shipment: an inland bill, an ocean bill and an air waybill.

The inland bill of lading is often the first transportation document created for your export. It's used to move your goods to the ocean port or airport for transport out of the country to the buyer's destination.

The ocean bill of lading is used if your goods are shipping by ocean vessel. It can serve as both a contract of carriage and a document of title for the cargo. It can be a negotiable or non-negotiable document.

The air waybill is required for shipments by air. It is a contract of carriage between the shipper and the carrier, and it is always non-negotiable.

[Download Free Templates for Bills of Lading]

7. Dangerous Goods Forms

If your products are considered dangerous goods by either the International Air Transport Association (IATA) or the International Maritime Organization (IMO), you need to include the appropriate dangerous goods forms with your shipment. These forms need to be completed by someone who has been trained to handle dangerous goods shipping.

If you're shipping dangerous goods, read *What You Need to Know about Shipping Dangerous Goods.*

Download a Free Dangerous Goods Form Template

8. Bank Draft

A bank draft is an important part of getting paid for your exports under a documentary collection. The seller attaches the various required documents to the bank draft and presents it to the bank to get paid. Usually the seller's bank will send the bank draft and related documents via the freight forwarder to the buyer's bank. When the buyer authorizes payment for the goods, the bank releases the documents to the buyer and transfers the funds to the seller's bank.

Download a Free Bank Draft Template

For a more complete explanation of these and other export documents, download the free white paper: *The Beginner's Guide to Export Forms.*

Resources

- The Export Shipping Documentation Process
- 7 Essential Resources for Completing Export Documents
- 6 Things That Can Go Wrong When Creating Export Documents

Filing through the Automated Export System (AES)

The Automated Export System (AES) is the primary instrument used by the U.S. Census Bureau to collect data on U.S. exports, which becomes part of the statistics used to compile the U.S. position on merchandise trade. In other words, by reporting your exports to AES, your information is included in the economic indicators and Gross Domestic Product (GDP) of our nation's economy.

In addition, U.S. Customs and Border Protection (CBP) uses the data to ensure compliance with U.S. export regulations so that our country's exports do not fall into the hands of unauthorized parties that may harm the homeland or U.S. interests abroad. Reporting to AES is important!

Companies are required to file electronically using a system called AESDirect, which is accessed through the Automated Commercial Environment (ACE). The information you file is called Electronic Export Information (EEI). According to the Census Bureau, electronic filing of export information improves the government's ability to monitor and prevent exports of critical goods and technologies that may threaten our national security and significantly improves the quality and timeliness of export statistics.

When Do I Need to File with AES?

An AES filing is required for most exports of merchandise from the United States to a foreign country if the merchandise is valued at $2,500 or more by Schedule B number. However, the origin of the goods, either domestic or foreign, is also considered. For example, if you have two items in your shipment with the same Schedule B number valued at $2,000 each for a total of $4,000, and both are of domestic origin or both of foreign origin, you need to file through AES. However, if half of it is of foreign origin and half domestic origin, then you *do not* need to file because the items by Schedule B number and by origin are only valued at $2,000 each.

An AES filing is also required for all exports that require an export license from the U.S. Commerce or State Departments regardless of value. Goods subject to ITAR but exempt from licensing export requirements regardless of value or destination must be filed through AES.

Exports from the U.S. to Canada don't require an AES filing regardless of the value of the merchandise unless the item is a self-propelled vehicle or an export license or license exception is required. As a matter of fact, all self-propelled vehicles must be filed regardless of value or destination. An AES filing is also required for rough diamonds (classified under HS subheadings 7102.10, 7102.21 and 7102.31) regardless of value or destination.

In most cases, the filing must be done from one to 24 hours prior to the actual export of the shipment depending on the method of transportation.

Civil and criminal penalties for failing to file through AES or for filing incorrect information can be up to a maximum of $10,000 per violation. It is the job of the Office of Export Enforcement within the U.S. Department of Commerce and U.S. Customs and Border Protection within the Department of Homeland Security to investigate and enforce these rules.

Resources

- Free guide: Filing Your Export Shipments through the Automated Export System
- Free webinar: Filing Your Electronic Export Information through AESDirect

Who Does the AES Filing?

For most export shipments where the exporter, known as the U.S. Principal Party in Interest (USPPI) in the Foreign Trade Regulations (FTR), arranges for the transportation of the goods out of the U.S., the USPPI is the party responsible for the EEI filing. Alternatively, the USPPI can authorize and pay a third party—often the freight forwarder—to do the AES filing.

✓ While the responsibility of filing with AES can be outsourced, the liability cannot. Be sure to request proof of filing if you authorize your freight forwarder to do it for you.

If the buyer, called the Foreign Principal Party in Interest (FPPI) under the FTR, is responsible for shipping the goods out of the United States, this is called a routed export transaction. In this case, the FPPI must authorize a U.S. agent to prepare and file the electronic export information (EEI) in one of two ways:

1. The FPPI can authorize the USPPI to file the EEI.

2. The FPPI can authorize their U.S.-based agent (typically the freight forwarder) to prepare and file the EEI.

In a routed export where the authorized freight forwarder or other agent is doing the filing, the FTR requires the USPPI to provide the following data elements:

- The name, as well as the address of the USPPI
- The employer identification number or other tax identification number of the USPPI
- The point of origin for the merchandise awaiting exportation
- The appropriate merchandise code, Domestic (D) or Foreign (F)
- The appropriate Schedule B number
- The appropriate Schedule B description of commodities
- The appropriate quantity and unit of measure
- The appropriate value
- The appropriate export control classification number (ECCN) or enough technical information to determine the ECCN

Resources

- Who Is Responsible for Filing the Electronic Export Information (EEI)?
- USPPI vs. Exporter: What's the Difference?
- Standard vs. Routed Export Shipment: What's the Difference?

Ensuring Accurate Export Documents

It is imperative to have accurate export documents.

✓ Inaccurate documents can cause delays in shipments and payments, and lead to violations of export regulations—which can lead to fines and penalties.

Ideally, companies should have a consistent export documentation template and procedures in place that dictate what needs to be on each form. If you don't—or if your information is inaccurate— you can get audited and penalized for making an inaccurate claim.

For more information, see *4 Steps for Ensuring Accurate Export Documents*.

Chapter VII. Recordkeeping Requirements

As a general rule (outlined in Part 762 of the Export Administration Regulations), export regulations require you to maintain export documentation for at least five years after an export transaction is complete. Five years is the standard for most agencies that have a hand in exporting, including the Bureau of Industry and Security (BIS), U.S. Census Bureau, U.S. Customs and Border Protection (CBP), the State Department's Directorate of Defense Trade Controls (DDTC) and other agencies. However, in September 2024, the Office of Foreign Asset Controls (OFAC) extended its recordkeeping requirement to 10 years, which aligns with changes doubling the statute of limitation for OFAC sanctions programs violations from five to 10 years.

While at the time of this writing the other agencies haven't announced any intention to increase their document retention requirements from five to 10 years, keep in mind that OFAC regulations can be broad and may impact your exports even if your goods fall under the jurisdiction of BIS or DDTC.

Also keep in mind that different federal agencies and departments start the clock on record retention at different points in time. Certain sets of regulations state you must maintain your documents for five years from the date of export. Others say five years after the export is complete. And still others say you must maintain the documents for five years after an export license has expired. It's your job to know what those caveats are and abide by them.

Even once those five or 10 years are up, you still may not be able to toss the records. If a government agency requests information pertaining to a particular export shipment before the five-year period is up, you must continue to keep all the records related to that shipment until you have written authorization to destroy them.

Know Which Exporting Documents to Keep

Different departments and agencies define export records differently. The Export Administration Regulations (EAR), which cover most exports that don't fall under the jurisdiction of the U.S. State Department, defines the types of records that must be retained, including:

- Export control documents as defined in Part 772 of the EAR
- Memoranda
- Notes
- Correspondence
- Contracts
- Invitations to bid
- Books of account
- Financial records
- Restrictive trade practice or boycott documents and reports (read more about antiboycott compliance here)
- Notification from BIS of an application being returned without action, being denied or being reviewed
- Other documents pertaining to the transaction

The EAR also identifies the dozens of records that are exempt from recordkeeping requirements. You can see the list here.

The Foreign Trade Regulations (FTR) require that all parties in an export transaction be able to provide "EEI, shipping documents, invoices, orders, packing lists and correspondence as well as any other relevant information bearing upon a specific export transaction" within five years of the date of export.

The International Traffic in Arms Regulations (ITAR) states that anyone who is required to register with DDTC to export items "must maintain records concerning the manufacture, acquisition and disposition (to include copies of all documentation on exports using exemptions and applications and licenses and their related documentation), of defense articles; of technical data; the provision of defense services; brokering activities; and information on political contributions, fees, or commissions furnished or obtained, as required by part 130 of this subchapter."

The Ear and ITAR require that these records be maintained for five years from the expiration of the export license or from the date of the transaction when using an export license exemption. See *The ITAR Compliance Checklist* to learn more.

Understand Who Is Subject to Recordkeeping Requirements

As mentioned above, the EAR requires exporters and their agents (including freight forwarders) who export "commodities, software, or technology from the United States and any known reexports, transshipment, or diversions of items exported from the United States" to abide by these recordkeeping requirements.

The FTR expands that requirement to include all parties in an export transaction including the owners and operators of export carriers, U.S. Principal Parties in Interest (USPPI), Foreign Principal Parties in Interest (FPPI) and authorized agents such as freight forwarders.

Chapter VIII. Technology

Using Export Software to Increase the Accuracy and Efficiency of Your Export Documentation and Compliance Process

Completing your export documentation can be a hassle if you don't have the right tools. That's where Shipping Solutions export software fits in. Thousands of successful exporters use Shipping Solutions to complete their export forms up to five times faster than preparing them by hand or by using Excel or Word templates.

The advanced version of the software—Shipping Solutions Professional—can save even more time by linking to your company's accounting or ERP system. It also includes export compliance tools to help ensure you are complying with U.S. export regulations.

With software, you'll get these four benefits that outdated export documentation procedures and templates just can't match:

1. Automation

Instead of manually entering the same information on every export form, Shipping Solutions automates the export documentation process for you. You simply enter your information one time, and the software automatically formats and places the data in the right locations on all your exporting documents.

The software stores your company, customer and product details, so you don't have to retype them for every shipment. That makes creating your export forms up to five times faster.

2. Consistency

Not only will Shipping Solutions save you time, it will improve the accuracy of your export paperwork by reducing typos and inconsistencies that slow shipments and delay payments.

Shipping Solutions software stores your contact and product information so you don't have to type it every time you use it, which helps eliminate inconsistencies. You can also import orders from your accounting or ERP software so the data comes through exactly how it is stored in your ERP system.

3. Built-In Best Practices

When you use Word and Excel for your export documentation forms, you are taking the chance that the template is outdated or missing required information. That's a huge risk—especially if you've just entered the name of a form in Google and selected the first template you came across!

The export forms included with Shipping Solutions software are kept up to date and follow industry best practices. Companies have been using Shipping Solutions for more than 30 years to generate hundreds of thousands of documents to accompany tens of thousands of successful export shipments.

In addition, Shipping Solutions makes it easy to file your export information through the Automated Export System (AES) by prompting you to enter all the required fields. The U.S. Foreign Trade Regulations hold you, the exporter, liable for the accuracy of the information that is filed through AES—even if you are paying a third party to file on your behalf—so it's best to handle it yourself.

✓ Shipping Solutions makes it easy. Our Export Compliance Module uses the latest data from the Export Administration Regulations (EAR), the International Traffic in Arms Regulations (ITAR), and more than 200 different Denied Party Lists to make sure your shipments always comply with U.S. export regulations.

Resources

- 5 Reasons to Invest in Export Documentation Software
- 10 Time-Saving Tips for Creating and Organizing Your Export Documents

4. Control

Shipping Solutions gives you the ability to manage every aspect of your exporting, including:

- Creating more than two dozen export documents to print or email.
- Filing through AES.
- Running export compliance screenings.
- Importing orders seamlessly from your ERP system.
- Documenting the steps in your export compliance program.

Using one tool for all your exporting needs shows that you're serious about becoming a successful exporter. To see how Shipping Solutions software can help your company meet its export requirements, sign up for a free online demo here.