

**EXPORT/IMPORT
PROCEDURES
and
DOCUMENTATION
REVISED and UPDATED
FOURTH EDITION**

**THOMAS E. JOHNSON
and
DONNA L. BADE**

AMACOM

American Management Association

**New York • Atlanta • Brussels • Chicago • Mexico City • San Francisco
Shanghai • Tokyo • Toronto • Washington, D.C.**

Contents

<i>Foreword by Eugene J. Schreiber</i>	xi
<i>Preface</i>	xiii
<i>Acknowledgments</i>	xv
<i>About the Authors</i>	xvi

Part I **Organizing for Export and Import Operations** 1

Chapter 1. Organizing for Export and Import Operations	3
A. <i>Export Department</i>	3
B. <i>Import Department</i>	4
C. <i>Combined Export and Import Departments</i>	4
D. <i>Manuals of Procedures and Documentation</i>	8
E. <i>Record-Keeping Compliance</i>	9
F. <i>Software</i>	14
G. <i>Federal, State, International, and Foreign Law</i>	14

Part II **Exporting: Procedures and Documentation** 15

Chapter 2. Exporting: Preliminary Considerations	17
A. <i>Products</i>	17
B. <i>Volume</i>	18
C. <i>Country Market and Product Competitiveness Research</i>	18
D. <i>Identification of Customers: End Users, Distributors, and Sales Agents</i>	19
E. <i>Compliance With Foreign Law</i>	19
1. <i>Industry Standards</i>	20
2. <i>Foreign Customs Laws</i>	21
3. <i>Government Contracting</i>	21
4. <i>Buy American Equivalent Laws</i>	22

Contents

5.	<i>Exchange Controls and Import Licenses</i>	22
6.	<i>Value-Added Taxes</i>	22
7.	<i>Specialized Laws</i>	22
F.	<i>Export Controls and Licenses</i>	23
G.	<i>Patent, Trademark, and Copyright Registrations and Infringements</i>	23
H.	<i>Confidentiality and Non-Disclosures Agreements</i>	24
I.	<i>Antiboycott Compliance</i>	24
J.	<i>Employee Sales Visits to Foreign Countries—Immigration and Customs Compliance</i>	25
K.	<i>Utilization of Freight Forwarders and Foreign Customs Brokers</i>	25
L.	<i>Export Packing and Labeling (Hazardous Materials)</i>	34
M.	<i>Terms of Sale</i>	42
N.	<i>Consignments</i>	46
O.	<i>Leases</i>	46
P.	<i>Marine and Air Casualty Insurance</i>	47
Q.	<i>Methods of Transportation; Booking Transportation</i>	48
R.	<i>Country of Origin Marking</i>	49
S.	<i>Foreign Warehousing and Free Trade Zones</i>	50
T.	<i>Export Financing and Payment Insurance</i>	50
U.	<i>Tax Incentives</i>	51
V.	<i>Export Trading Companies, Export Trade Certificates of Review, and Export Management Companies</i>	51
W.	<i>Translation</i>	66
X.	<i>Foreign Branch Operations, Subsidiaries, Joint Ventures, and Licensing</i>	66
Y.	<i>Electronic Commerce</i>	66
Chapter 3. Exporting: Sales Documentation		69
A.	<i>Isolated Sales Transactions</i>	69
1.	<i>Importance of Written Agreements</i>	69
2.	<i>Email or Facsimile Orders</i>	70
3.	<i>The Formation of Sales Agreements</i>	70
4.	<i>Common Forms for the Formation of Sales Agreements</i>	72
a.	<i>Price Lists</i>	72
b.	<i>Requests for Quotations</i>	72
c.	<i>Quotations and Costing Sheets</i>	74
d.	<i>Purchase Orders</i>	74
e.	<i>Purchase Order Acknowledgments and Acceptances and Sales Confirmations</i>	78
f.	<i>Pro Forma Invoices</i>	82
g.	<i>Commercial Invoices</i>	82
h.	<i>Conflicting Provisions in Seller and Buyer Sales Documentation</i>	87
i.	<i>Side Agreements</i>	90
B.	<i>Ongoing Sales Transactions</i>	90
1.	<i>Correlation With Documentation for Isolated Sales Transactions</i>	91
2.	<i>Important Provisions in International Sales Agreements</i>	92
a.	<i>Selling and Purchasing Entities</i>	92

Contents

b.	Quantity	93
c.	Pricing	93
d.	Currency Fluctuations	95
e.	Payment Methods	96
f.	Export Financing	98
g.	Security Interest	98
h.	Passage of Title, Delivery, and Risk of Loss	101
i.	Warranties and Product Defects	101
j.	Preshipment Inspections	102
k.	Export Licenses	103
l.	Import Licenses and Foreign Government Filings	103
m.	Governing Law	103
n.	Dispute Resolution	105
o.	Termination	107
C.	Export Distributor and Sales Agent Agreements	107
1.	Distinction Between Distributor and Sales Agent	107
2.	Export Distributor Agreements	108
a.	Territory and Exclusivity	109
b.	Pricing	109
c.	Minimum Purchase Quantities	112
d.	Handling Competing Products	112
e.	Effective Date and Government Review	113
f.	Appointment of Subdistributors	113
g.	Use of Trade Names, Trademarks, and Copyrights	113
h.	Warranties and Product Liability	114
3.	Export Sales Agent Agreements	114
a.	Commissions	114
b.	Pricing	117
c.	Shipment	117
d.	Warranties	117
e.	Relationship of the Parties	117
D.	Foreign Corrupt Practices Act Compliance	118
Chapter 4.	Exporting: Other Export Documentation	119
A.	Freight Forwarder's Power of Attorney	119
B.	Shipper's Letters of Instructions	122
C.	Commercial Invoices	122
D.	Bills of Lading	124
E.	VOCCs and NVOCCs	126
F.	Packing Lists	132
G.	Inspection Certificates	132
H.	Marine and Air Casualty Insurance Policies and Certificates	132
I.	Dock and Warehouse Receipts	135
J.	Consular Invoices	135
K.	Certificates of Origin	135
L.	Certificates of Free Sale	158

Contents

<i>M. Delivery Instructions and Delivery Orders</i>	165
<i>N. Special Customs Invoices</i>	165
<i>O. Shipper's Declarations for Dangerous Goods</i>	165
<i>P. Precursor and Essential Chemical Exports</i>	176
<i>Q. Animal, Plant, and Food Export Certificates</i>	176
<i>R. Drafts for Payment</i>	176
<i>S. Letters of Credit</i>	180
<i>T. Electronic Export Information</i>	181
<i>U. Freight Forwarder's Invoices</i>	194
<i>V. Air Cargo Security and C-TPAT</i>	194
1. <i>Air Cargo Security</i>	194
2. <i>Customs and Trade Partnership Against Terrorism (C-TPAT)</i>	196
Chapter 5. Export Controls and Licenses	197
<i>A. Introduction</i>	197
<i>B. Scope of the EAR</i>	198
<i>C. Commerce Control List</i>	198
<i>D. Export Destinations</i>	203
<i>E. Customers, End Users, and End Uses</i>	211
<i>F. Ten General Prohibitions</i>	212
<i>G. License Exemptions and Exceptions</i>	213
<i>H. License Applications and Procedures</i>	215
1. <i>Documentation From Buyer</i>	215
2. <i>License Application Form</i>	218
3. <i>Procedures</i>	218
<i>I. Re-Exports</i>	224
<i>J. Export Documentation and Record-Keeping</i>	224
<i>K. Special Comprehensive Licenses</i>	227
<i>L. Technology, Software, and Technical Assistance Exports</i>	231
<i>M. Validated End-User Program</i>	232
<i>N. Violations and Penalties</i>	233
<i>O. Munitions and Arms Exports</i>	233
Part III	
Importing: Procedures and Documentation	249
Chapter 6. Importing: Preliminary Considerations	251
<i>A. Products</i>	251
<i>B. Volume</i>	252
<i>C. Country Sourcing</i>	252
<i>D. Identification of Suppliers</i>	253
<i>E. Compliance With Foreign Law</i>	254
1. <i>Foreign Export Controls</i>	254
2. <i>Exchange Control Licenses</i>	255
3. <i>Export Quotas</i>	255
<i>F. U.S. Customs Considerations</i>	256

Contents

1. Utilization of Customs Brokers	256
2. Importation Bonds	259
3. Importer's Liability and Reasonable Care	259
4. Application for Importer's Number	262
5. Ports of Entry	262
6. Import Quotas	262
7. Antidumping, Countervailing, and Other Special Duties	267
8. Classification	268
9. Valuation	269
10. Duty-Free and Reduced Duty Programs	270
11. Column 2 Imports	271
12. Deferred Duty Programs (Bonded Warehousing and Foreign Trade Zones)	271
13. Temporary Importations	272
14. Country of Origin	272
15. Assists	274
16. Specialized Products	274
17. Record-Keeping Requirements	275
18. Customs Rulings	275
G. Import Packing and Labeling	275
H. U.S. Commercial Considerations	276
1. Prevailing Market Price	276
2. Buy American Policies	277
3. U.S. Industry Standards	277
I. Terms of Purchase	277
J. Consignments	279
K. Leases	280
L. Marine and Air Casualty Insurance	280
M. Method of Transportation; Booking Transportation	280
N. Import Financing	281
O. Patent, Trademark, and Copyright Registrations and Infringements	281
P. Confidentiality and Non-Disclosure Agreements	282
Q. Payment	282
R. Translation	283
S. Foreign Branch Operations, Subsidiaries, Joint Ventures, and Licensing	283
T. Electronic Commerce	289
Chapter 7. Importing: Purchase Documentation	293
A. Isolated Purchase Transactions	293
1. Importance of Written Agreements	293
2. Email or Facsimile Orders	294
3. The Formation of Purchase Agreements	294
4. Common Forms for the Formation of Purchase Agreements	295
a. Price Lists	296
b. Requests for Quotations and Offers to Purchase	296
c. Quotations	296

Contents

d. Purchase Orders	297
e. Purchase Order Acknowledgments and Acceptances and Sales Confirmations	297
f. Commercial Invoices	298
g. Conflicting Provisions in Seller and Buyer Sales Documentation	298
h. Side Agreements	299
B. Ongoing Purchase Transactions	299
1. Correlation With Documentation for Isolated Purchase Transactions	300
2. Important Provisions in International Purchase Agreements	301
a. Purchasing and Selling Entities	301
b. Quantity	302
c. Pricing	302
d. Currency Fluctuations	304
e. Payment Methods	305
f. Import Financing	307
g. Security Interest	307
h. Passage of Title, Delivery, and Risk of Loss	308
i. Warranties and Product Defects	308
j. Preshipment Inspections	308
k. Export Licenses	309
l. Governing Law	309
m. Dispute Resolution	311
n. Termination	312
C. Import Distributor and Sales Agent Agreements	313
1. Distinction Between Distributor and Sales Agent	313
2. Import Distributor Agreements	313
a. Territory and Exclusivity	314
b. Pricing	314
c. Minimum Purchase Quantities	315
d. Handling Competing Products	315
e. Appointment of Subdistributors	315
f. Use of Trade Names, Trademarks, and Copyrights	315
g. Warranties and Product Liability	316
3. Import Sales Agent Agreements	316
a. Commissions	316
b. Pricing	317
c. Shipment	317
Chapter 8. Import Process and Documentation	318
A. Importer Security Filing and the 10+2 Program	318
B. Bills of Lading	319
C. Commercial Invoices	319
D. Pro Forma Invoices	321
E. Packing Lists	321

Contents

<i>F. Inspection Certificates</i>	321
<i>G. Drafts for Payment</i>	323
<i>H. Arrival Notices</i>	323
<i>I. Pickup and Delivery Orders</i>	323
<i>J. Entry/Immediate Delivery</i>	323
<i>K. Entry Summary</i>	324
<i>L. Other Entries</i>	328
<i>M. Reconciliation</i>	333
<i>N. GSP, ATPA, AGOA—Special Programs</i>	333
<i>O. NAFTA/Other FTA Certificates of Origin</i>	336
<i>P. Specialized Products Import Entry Forms</i>	336
<i>Q. Examination and Detention</i>	338
<i>R. Liquidation Notices</i>	338
<i>S. Notices of Redelivery</i>	350
<i>T. Post Entry Amendment</i>	350
<i>U. Requests for Information</i>	350
<i>V. Notices of Action</i>	354
<i>W. Protests</i>	354
<i>X. Administrative Summons</i>	359
<i>Y. Search Warrants</i>	367
<i>Z. Grand Jury Subpoenas</i>	367
<i>AA. Seizure Notices</i>	367
<i>BB. Prepenalty Notices</i>	367
<i>CC. Penalty Notices</i>	370
<i>DD. Customs Audits</i>	382
<i>EE. Prior Disclosure</i>	385
<i>FF. Court of International Trade</i>	385
<i>GG. Appeals</i>	385
<i>HH. Offers of Compromise</i>	392
<i>II. ITC and Commerce Questionnaires</i>	392
Part IV	
Specialized Exporting and Importing	393
Chapter 9. Specialized Exporting and Importing	395
<i>A. Drawback</i>	395
<i>B. Foreign Processing and Assembly Operations</i>	402
<i>C. Plant Construction Contracts</i>	407
<i>D. Barter and Countertrade Transactions</i>	407
Appendix A. Exporter Assistance	409
Appendix B. International Sales Agreement (Export)	415
Appendix C. Federal Register Notice: Mandatory AES	421
Appendix D. Informed Compliance: Reasonable Care	466

Contents

Appendix E.	Harmonized Tariff Schedule (Excerpts)	482
Appendix F.	International Purchase Agreement (Import)	496
Appendix G.	Automated Commercial Environment (ACE)	502
Appendix H.	Guidance on Internet Purchases	544
Appendix I.	Regulatory Audit Questionnaires	553
Appendix J.	Export/Import–Related Websites	560
Appendix K.	Steel License Information	566
	Glossary of International Trade Terms	588
	Index	614