



SCARBROUGH

A faint, light blue world map is centered in the background of the slide, showing the outlines of continents.

TOP 10
MISTAKES
TO AVOID
WHEN EXPORTING

www.scarbrough-intl.com

3 Decades Of Growth

Continually expanding our services to exceed expectations



SCARBROUGH

Freight Forwarding &
U.S. Customs Brokerage



1984

NVOCC Operations &
Consolidation Services



2003

Freight Forwarding &
Mexico Customs Brokerage



2015

Warehouse Distribution &
Fulfillment Services



2019

1988



Regional Asset-Based Trucks

2014



North American Truck Brokerage

2018



U.S. Customs & Supply Chain Consulting

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SPEAKERS

Patrick Colligan
Director of Global Accounts
Scarborough Group of Companies
pcolligan@scarborough-intl.com

Kim Taylor
Marketing Director
Scarborough Group of Companies
ktaylor@scarborough-intl.com

Angelica Partezani
Export Operations Manager
Scarborough International, Ltd.
apartezani@scarborough-intl.com



TOP 10 MOST COMMON EXPORT MISTAKES

1. Knowing your Buyer
2. Selection of Incoterm®
3. Assessing Risk & Choosing Payment Methods
4. Classifying your Product Correctly
5. Complying with USA Export Regulations
6. Knowing Destination Constraints
7. Understanding Routed Transactions
8. Preparing Goods to Reduce Damage
9. Documenting Goods Shipped
10. Export Documentation



1. KNOWING YOUR BUYER

- Questions to ask yourself when exporting....
 - **What** are you exporting?
Is your commodity licensable under ITAR or EAR
 - **Where** are you exporting?
Can you ship to the destination country?
 - **Who** will receive your item?
Must check denied parties list.
 - **What** will your item be used for?
If your item has dual use it may require a license

BIS – Bureau of Industry and Security

U.S department of Commerce

- Looking for Sanctioned Destination
<https://www.bis.doc.gov/index.php/policy-guidance/country-guidance/sanctioned-destinations>
- Screening denied parties list.
<https://www.export.gov/csl-search>



\$60,000 Penalty for Anti-Boycott Violations

Wednesday, August 29, 2018
Sandler, Travis & Rosenberg Trade Report

The Bureau of Industry and Security has issued an order imposing a \$60,000 civil penalty against a company that it committed 20 violations of the anti-boycott provisions of the Export Administration Regulations (EAR) from January 2012 through March 2016, in connection with the company's export of information (including information) from the U.S. to Kuwait, Lebanon, and Saudi Arabia. The company is restricted from having any business with the restricted countries in a timely manner.

\$13.9 Million Penalty for Bribery Violations

Thursday, September 13, 2018
Sandler, Travis & Rosenberg Trade Report

The Securities and Exchange Commission announced Sept. 12 that it resolved charges that it violated the Foreign Corrupt Practices Act (FCPA). The resolution includes \$9.07 million in disgorgement, a \$4 million penalty, and nearly \$13.9 million in interest.

- One of the company's subsidiaries made unlawful payments to Azerbaijani officials to facilitate sale of subsidiary's products and as part of a kickback scheme to sell products in China.
- The company, through a joint venture, made payments to a Chinese sales agent in a bid to obtain confidential information from a Chinese official that would help the company win sales to a Chinese state-owned company in Thailand, and Indonesia to obtain business.
- The company improperly provided trips and gifts to foreign officials in China, Kuwait, South Korea, Pakistan, and Thailand.

\$34 Million Penalty to Resolve FCPA Violation Charges

Tuesday, August 28, 2018
Sandler, Travis & Rosenberg Trade Report

The Securities and Exchange Commission announced Aug. 27 that a company will pay more than \$34 million to resolve charges that it violated the Foreign Corrupt Practices Act in a scheme to bribe Libyan government officials. Specifically, the company agreed to disgorge approximately \$27.6 million in profits plus \$6.9 million in prejudgment interest. The company previously entered into a non-prosecution agreement with the Department of Justice concerning the same scheme in which it agreed to pay another \$33 million.

The SEC alleges that between 2004 and 2010 a former asset management subsidiary of the company provided financial services company to solicit investment business from Libyan state-owned entities engaged in a scheme to pay bribes to Libyan officials through a third party to secure investments. As a result, the company was awarded a non-prosecution agreement.

LOOK OUT FOR RED FLAGS!
OR ELSE.....

Lack of Due Diligence Leads to \$155,000 Penalty for Unlicensed Export to Russia

Wednesday, August 15, 2018
Sandler, Travis & Rosenberg Trade Report

Inadequate measures to prevent exports to restricted end-users have resulted in a \$155,000 civil penalty against a logistics company accused of violating the Export Administration Regulations.

The Bureau of Industry and Security alleged that the company aided the export of an item designated EAR99 to a Russian entity on the BIS Entity List without the required license. According to BIS, the company provided freight forwarding services for this unlicensed export even though documents provided to it by the exporter clearly identified the Russian entity's full name as set forth on the Entity List along with a near-exact match of the entity's address. The company's screening software correctly identified the Russian entity and flagged the shipment, but an export supervisor erroneously overrode or ignored this flag. Without further inquiry or due diligence, BIS states, the company proceeded with the transaction and prepared and filed electronic export information that falsely indicated the exported item did not require a license (NLR).

BIS is suspending \$20,000 of the penalty against this company through Dec. 15, 2019, and waiving it thereafter, provided the company commits no further export violations during that time. If the company fails to pay the penalty BIS may suspend its export privileges for one year.

\$37,000 Penalty

Wednesday, January 10, 2018
Sandler, Travis & Rosenberg Trade Report

The Bureau of Industry and Security has issued an order assessing a \$37,000 civil penalty against a company to settle charges that it committed ten violations of the anti-boycott provisions of the Export Administration Regulations. If the company fails to pay the penalty in a timely manner the company's export privileges for one year.

In connection with shipments to Bahrain, the company was charged with knowingly agreeing to do business with another person pursuant to an agreement with, a requirement of, or a request from a boycotting country. In addition, in connection with shipments to Bangladesh, Bahrain, Kuwait, and Saudi Arabia, the company was charged with knowingly agreeing to do business with another person pursuant to an agreement with, a requirement of, or a request from a boycotting country.



RESOURCES

<https://www.bis.doc.gov/>

U.S. Department of Commerce
1401 Constitution Avenue, N.W.
Washington, D.C. 20230

Main Phone Line
Phone: (202) 482-2000



2. SELECTION OF INCOTERM[®]

- Incoterms are a very powerful communication tool
- Incoterms are NOT law
- Used as an internationally accepted way of agreeing upon a sale
- Communicates who is responsible for movement of freight and insurance

When exporting from the United States, we suggest C-Terms



3. ASSESSING RISK & CHOOSING PAYMENT METHODS

Assessing Country Risk

- Stability
- Sanctions and Embargoes
- Fraud

Assessing Customer Risk

- Legitimate
- Financially Sound
- BIS or OFAC List
- Develop a Relationship

Assessing Foreign Banks

- Stability
- Size
- Integrity
- BIS or OFAC List

CHOOSING PAYMENT METHODS

Cash in Advance

Wire transfers, checks & credit cards

Funds are wired to the seller before the shipment takes place

Open Account

Seller and Buyer agree on payment date after goods have been shipped

Documentary Collections

Known as “Sight Drafts and Time Drafts” or D/P (document against payment)

Or D/A (documents against acceptance), or “Cash Against documents”

Letters of Credit (L/C or LOC)

Letter from a bank guaranteeing that a buyer’s payment to a seller will be received. In event the buyer unable to make a payment, the bank will be required to cover the full or remaining amount of the purchase.



4. CLASSIFYING YOUR PRODUCT CORRECTLY

Commerce Control List Categories

0	Nuclear & Miscellaneous
1	Materials, Chemicals, Microorganisms and Toxins
2	Materials Processing
3	Electronics
4	Computers
5 Part 1	Telecommunications
5 Part 2	Information Security
6	Sensors and Lasers
7	Navigation and Avionics
8	Marine
9	Aerospace and Propulsion

Five Product Groups

A	Systems, Equipment and Components
B	Test, Inspection and Production Equipment
C	Material
D	Software
E	Technology

Commerce Control List (CCL) & ECCN

- ECCN is an alpha-numeric code, e.g., 3A001, that describes the item and indicates licensing requirements.
- All ECCN's are listed in the Commerce Control List (CCL)

Control List Structure

- The CCL is divided into ten broad categories (0 – 9)
- Each category is further subdivided into five products groups (A – E)

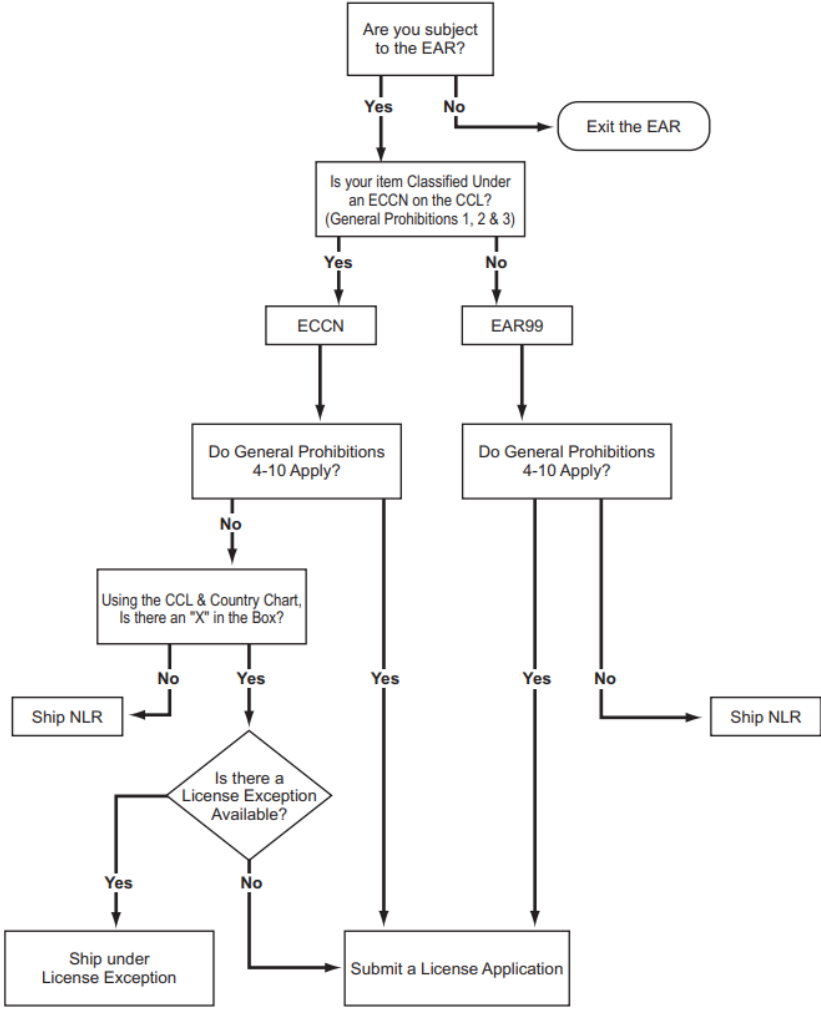
USPPI - United States Principal Party in Interest

- Responsible for preparing and filing EEI itself, or it can authorize a freight forwarder to prepare and file the EEI on its behalf.
- USPPI is responsible for the accuracy and timely transmission of all the export information reported to the AES such as Commodity Classification, Schedule B number, Quantity and mode of transport.



CLASSIFYING YOUR PRODUCT CORRECTLY (CONTINUED)

EAR DECISION TREE





CLASSIFYING YOUR PRODUCT CORRECTLY (CONTINUED)

HTS VS SCHEDULE B NUMBER

Schedule B

a 10-digit number used in the United States to classify physical goods for export to another country.

HTS (Harmonized Tariff Schedule)

a 10-digit number developed by the World Customs Organization (WCO), the codes are used to classify and define internationally traded goods. The six first digits is a universal standard while the 4 last digits is often unique to an individual countries of import.

Schedule B search: <https://www.census.gov/foreign-trade/schedules/b/index.html>



5. COMPLYING WITH USA EXPORT REGULATIONS

WHAT ARE MY RESPONSIBILITIES AS THE USPPI?

- Determine Commodity Jurisdiction
- Know your Customer
- Classify your product
- File Electronic Export Information (EEI) into the automated Export System (AES)
- Provide the forwarder with complete and accurate export information including licensing information
- Maintain Shipment Records



COMPLYING WITH USA EXPORT REGULATIONS

A CHECKLIST

- Are my product on the U.S Munition List (USML)
- Are my products subject to the EAR ?
- Are my products on the Commerce Control List (CCL) ?
- Do general prohibitions 4-10 apply?
- Do I know the end user and end use of the product?
- Am I shipping to a destination of concern?
- Do I need a BIS (Department of Commerce) license?
- Does my shipment qualify for a license exception?
- Is there any indication of restrictive trade practice or boycott language?
- Did I provide my forwarder with complete and accurate information?
- Did I provide my forwarder with written authorization to file AES on my behalf?
- Did I request and receive a copy of the AES data transmission from my forwarder?



DESTINATION CONTROL STATEMENT



These items are controlled by the U.S. Government and authorized for export only to the country of ultimate destination for use by the ultimate consignee or end-user(s) herein identified. They may not be resold, transferred, or otherwise disposed of, to any other country or to any person other than the authorized ultimate consignee or end-user(s), either in their original form or after being incorporated into other items, without first obtaining approval from the U.S. government or as otherwise authorized by U.S. law and regulations



It is the **EXPORTER'S RESPONSIBILITY** to conduct due diligence when exporting any products or services listed on the CCL to avoid penalties or fines associated with noncompliance.

- All Exported items listed on the Commerce Control List that are not classified as EAR99 or are eligible for license exception BAG or GFT require a **Destination Control Statement**.
- While it's not a requirement for all transactions, including a Destination Control Statement on every transaction is a good precaution in order to protect yourself in the event that merchandise you sold to a domestic purchaser is unexpectedly exported from the United States or re-exported at destination.



6. KNOWING DESTINATION CONSTRAINTS

- Work with a reliable freight forwarder with connections in destination country
- Work with Buyer to understand its own countries' regulations
- Work with Buyer to manage additional documents required by Customs at destination such as Certificate of Origin, Health Certificate, Veterinary Certificate, Quality Control Certificate, Free trade Agreement form, etc.
- Be aware if destination country regulations allowed importation of the goods e.g. waste & scrap material are not allowed in several countries
- Be aware of packing requirements such as heated treated wood and Fumigation.
- ISPM Standards





7. UNDERSTANDING ROUTED TRANSACTIONS

USPPI RESPONSIBILITIES ON ROUTED EXPORT TRANSACTIONS

- Name and address of the USPPI *
- USPPI Tax ID Number (EIN or DUNS) *
- Point of Origin
- Schedule B (or USHTS) Number
- Generic Commodity Description
- Schedule B / USHTS Quantity and Unit of Measure
- Value by Schedule B / USHTS
- Domestic (D) or Foreign (F) Indicator
- ECCN (or EAR99 if commodities are not on the Commerce Control List)
- NLR, EAR License Exception Code, ITAR Exemption or License Number

- **Power of Attorney (POA)**
Gives freight forwarder Power of Attorney to file EEI/AES on Shipper's behalf during a determinate pre-set date or until shipper decides to revoke the POA.
- **Shipper's Letter of Instruction (SLI)**
It is a form from shipper to the freight forwarder on how to handle the export shipment. SLI conveys authorization to the forwarder to transmit EEI/AES on shipper's behalf.
- **FPPI (Foreign Principal Party of Interest)**
Transaction in which the Foreign Party authorizes a U.S. Agent to facilitate the export of items from the United States and to prepare and file EEI/AES. (EXW & F-Terms)



8. PREPARING GOODS TO REDUCE DAMAGE

- Prepare the goods accordingly.
- Anticipate loading needs
- Anticipate unloading requirements depending on Incoterm®
- Know the size of the shipment and number of containers required
- Strong enforcement of Wood Packing / ISPM 15 rules
 - Required countries: <https://www.ippc.int/en/countries/all/ispm15/>
- Spend the money on quality pallets, packaging or crating to eliminate or reduce damage or shortage claims
- If LCL cargo, consider when goods are exceeding or overhanging on pallets
- Take pictures to show the blocking & bracing that was installed in containers.
- Apply identification labels





9. DOCUMENTING GOODS SHIPPED

DOCUMENT GOODS THAT ARE SHIPPED

- Take pictures
- Reduce shortage claims
- Accurate packing lists. Show what is in or on each piece (including details per container for multiple containers)
- Number the pieces whenever possible
- Take pictures of both shipping packages and per row, every row in every container. Piece numbers visible for pictures
- Labels showing piece count, origin & destination information



10. EXPORT DOCUMENTATION

FAILURE TO SHOW BUYER'S COMPLETE STREET ADDRESS, CONTACT NAME, PHONE & EMAIL RESULTS IN SHIPMENT DELAYS, DEMURRAGE, PIER STORAGE

- Certificates Of Origin:
 - claiming USA made goods that were not made in USA
 - Free Trade Agreement Countries
 - AID / EXIM Bank
 - U.S. Government of financed shipments
- Spare parts shipments are especially difficult to document
- Origin information is filed with U.S. Government via AES filings
- If showing harmonized code numbers on invoices, be sure they are accurate
- Failure to expedite required changes on documents creates container demurrage and pier storage overseas and an unhappy buyer



TYPES OF EXPORT DOCUMENTS

GENERAL DOCUMENTS

- Commercial Invoice
- Packing List
- Bill of Lading
- Shipper's letter of Instructions (SLI) or Power of Attorney (POA)



SPECIAL DOCUMENTS

- Certificate of Origin
- Packing Declaration
- Legalized Invoices and Packing Lists
- Phytosanitary Certificate
- Inspection Certificate
- Fumigation Certificate (BMSB)
- Shippers Declaration of Hazardous Cargo (IMO/IATA/DG)
- MSDS- Material Safety Data Sheet
- Health Certificate
- Veterinary Certificate
- Free Trade Agreement
- Letter of Credit Documentation
- Destination Control Statement



Q&A

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Director of Global Accounts
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pcolligan@scarborough-intl.com

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Angelica Partezani
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apartezani@scarborough-intl.com