



The Riddle of the Exporter

Exporting Regulatory Compliance

Topics We Will Cover:

- Legal Right to Export
- USPPPI
- Government Agencies That Control Exports
- The EAR-Export Administration Regulations
- Types of Exports
- How to Determine if You Need a License to Export
- Process to Obtain a License
- Filing Requirements-AES
- Foreign Regulatory Issues & Compulsory Marks
- Red Flags & Penalties



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Alphabet of Acronyms

- **AES**-Automated Export System
- **BIS**-Bureau of Industry & Security
- **CCL**-Commerce Control List
- **CCC**-China Compulsory Certification
- **CCC**-Country Control Chart
- **CE**-Conformité Européen
- **EAR**-Export Administration Regulations
- **ECCN**-Export Control Classification Number
- **EEI**-Electronic Export Information
- **FCPA**-Foreign Corrupt Practices Act
- **ITAR**-International Traffic in Arms Regulations
- **MRA**-Mutually Recognized Agreement
- **NLR**-No License Required
- **OFAC**-Office of Foreign Asset Control
- **RoHs**-Restriction of Hazardous Substances
- **Schedule B**
- **SED**-Shipper's Export Declaration
- **SDN**-Specially Designated National
- **USPPI**-U.S. Principal Party of Interest
- **WEEE**-Waste of Electrical & Electronic Equipment



Legal Right to Export

- Every U.S. citizen has the right to export without obtaining a license. However certain items do require a license and certain parties cannot be the recipient of your products.
- **You** are considered the USPPI, the U.S. Principal Party of Interest
- **You**, as the exporter, must determine whether your export requires a license.

Who Controls Exports?



U.S. State Department-Directorate of Defense Trade Controls (DDTC)-defense articles & services, ITAR

Commerce Department-Bureau of Industry and Security (BIS)-"dual use" items, EAR
Bureau of Census-trade-statistics and the AES



Treasury Department-Office of Foreign Assets Control (OFAC) oversees embargo and sanction lists

Department of Homeland Security -Customs and Border Protection (CBP) enforces all exports at U.S. borders.



EAR-Export Administration Regulations



- Goods in the U.S.
- Goods outside the U.S.
- Foreign Nationals
- U.S. Citizens



3 kinds of Exports?



- #1. **Tangible Exports**

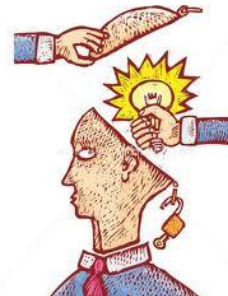
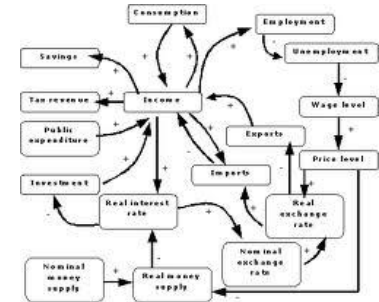
- Shipments through a US port via air, ocean, truck, rail, mail, etc.



3 kinds of Exports?

■ 2. Intangible Exports

- Electronic transfers (including email, fax and Internet downloads)
- Technical reports, drawings, data or source code released to foreign nationals
- Also includes “deemed” exports via someone’s brain!



3 kinds of Exports?

■ #3. Re-Exports

- Shipments from one foreign country to another of US-origin goods or foreign made goods containing certain US-origin parts, components or materials.



Do I Need a License?

The Big 4 Questions



1. What are you exporting?
 2. Where are you exporting?
 3. Who will receive your item?
 4. How will your item be used?
- ★ If your item has a DUAL USE, it may require a license.
 - ★ Even if your item is paper clips, it cannot be shipped to Osama Bin Laden.

Do I Need a License?



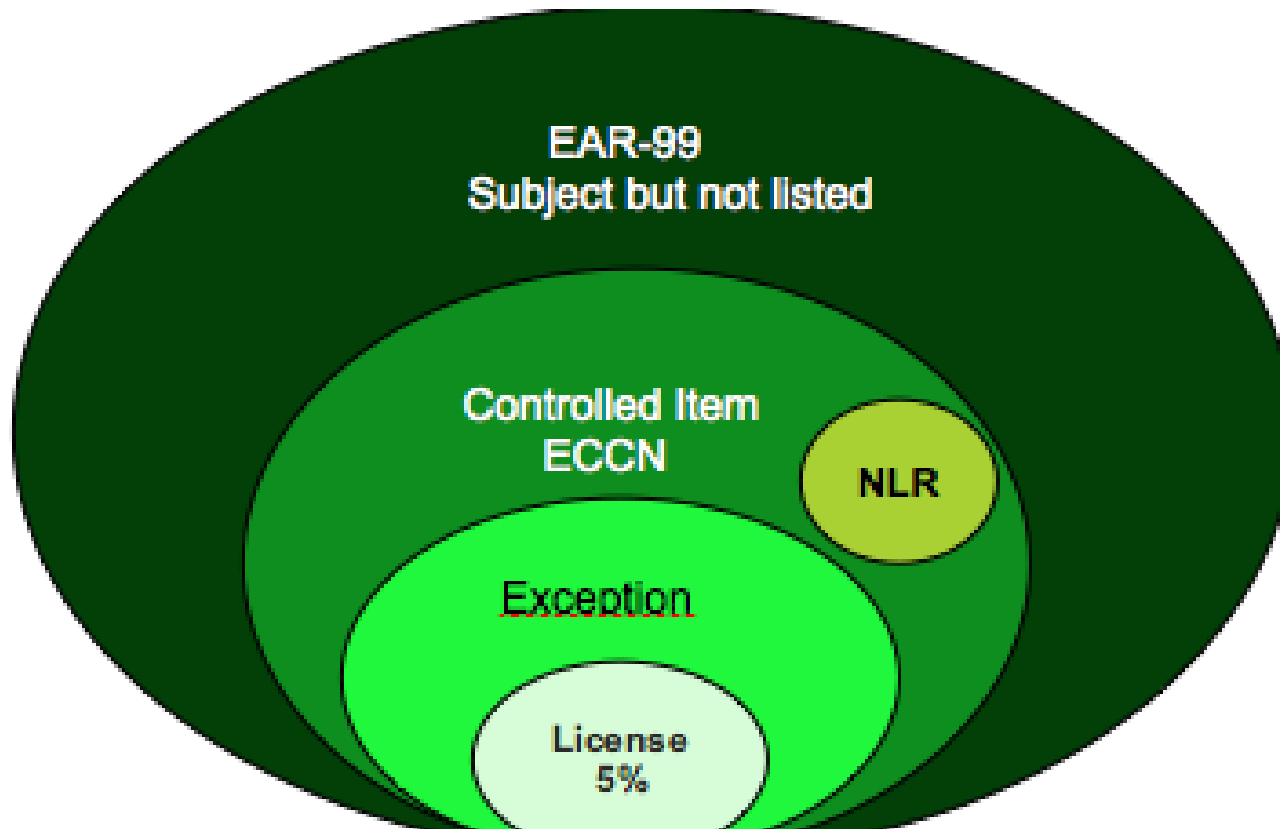
NONE

ALWAYS



Commercial Dual Use Military

Do I Need a License? What are the Odds?



Do I Need a License?

■ 10 Categories in the EAR:

- 0) Nuclear materials, facilities, equipment...
- 1) Materials, chemicals, microorganisms, toxins
- 2) Materials processing
- 3) Electronics
- 4) Computers
- 5) Telecom & information security
- 6) Sensors and lasers
- 7) Navigation and Avionics
- 8) Marine
- 9) Propulsions systems, space vehicles



5 Groups in each Category

- A. Systems, equipment, components
- B. Test, inspection, and production equipment
- C. Material
- D. Software
- E. Technology

Do I Need a License? The Steps to Find Out

- #1 Know & classify your item
- #2 Check if your item is on the CCL



- #5 Check the LISTS
 - Denied Party
 - Specially Designated Nationals
 - Unverified
 - Entity
 - Non-Proliferation Sanctions
 - Embargoed Countries



Do I Need a License? The Steps to Find Out



- **#3 Determine the ECCN**
- **#4 Cross Check the ECCN with the CCC**



- **#5 Check the LISTS**
 - Denied Party
 - Specially Designated Nationals
 - Unverified
 - Entity
 - Non-Proliferation Sanctions
 - Embargoed Countries



**Not yet, still
more to do!**



Do I Need a License? The Steps to Find Out



- #6 Apply for Export License Through SNAP-R
- #7 Must file AES regardless of value



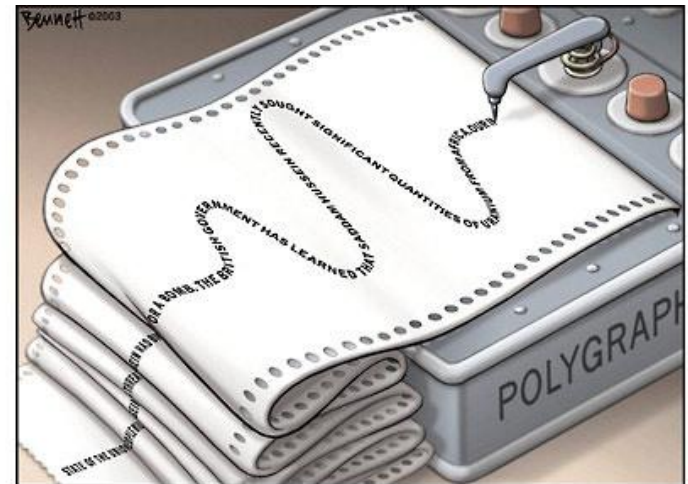
Do I Need a License? The Steps-example

#1 Know & classify your product: polygraph equipment for law enforcement

#2 Is it on the CCL?

#3 Read description & determine its ECCN

#4 Determine license requirements on the CCC



Commerce Control List



**Export Administration Regulations
Database**

http://www.gpo.gov/bis/ear/ear_data.html

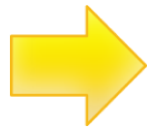


Alphabetical Index to the Commerce Control List	PDF	ASCII	WPD	09-07-10
Numerical Index to the Commerce Control List	PDF	ASCII	WPD	09-07-10
Part 774 - The Commerce Control List	PDF	ASCII	WPD	09-07-06
Category 0 - Nuclear Materials, Facilities & Equipment (and Miscellaneous Items)	PDF	ASCII	WPD	07-15-10
Category 1 - Materials, Chemicals, Microorganisms, and Toxins	PDF	ASCII	WPD	09-07-10
Category 2 - Materials Processing	PDF	ASCII	WPD	09-07-10
Category 3 - Electronics	PDF	ASCII	WPD	09-07-10
Category 4 - Computers	PDF	ASCII	WPD	09-07-10
Category 5 (Part 1) - Telecommunications	PDF	ASCII	WPD	09-07-10
Category 5 (Part 2) - Information Security	PDF	ASCII	WPD	01-07-11
Category 6 - Sensors and Lasers	PDF	ASCII	WPD	09-13-10
Category 7 - Navigation and Avionics	PDF	ASCII	WPD	09-07-10
Category 8 - Marine	PDF	ASCII	WPD	06-28-10
Category 9 - Propulsion Systems, Space Vehicles and Related Equipment	PDF	ASCII	WPD	09-13-10

Commerce Control List



Plutonium metal production systems	0B000.g
Plutonium nitrate conversion systems	0B006.f
Plutonium-238	1C012.a
Pocket cell electro-optical shuttering	6A203.b.3.c
Police helmets and shields	0A979
Polyarylene ketones	1C008.d
Polybiphenylenethersulphone	1C008.f
Polybromotetrafluoroethylene	1C006.c.3
Polybutadiene-acrylic acid (PBAA)	1C111.b.3
Polybutadiene-acrylic acid-acrylonitrile (PBAN)	1C111.b.4
Polycarbosilazanes	1C007.e.3
Polychlorotrifluoroethylene	1C006.c.2
Polycrystalline alumina fibers	1C010.c Note 1
Polycrystalline silicon and materials production equipment	3B991.b.1.a
Polydiorganosilanes, precursor for silicon carbide	1C007.e.1
Polyether ketone ether ketone ketone (PEKEKK)	1C998
Polyether ketone (PEK)	1C998
Polyether ether ketone (PEEK)	1C998
Polyether ketone ketone (PEKK)	1C998
Polyetherimides, fibrous & filamentary materials composed of	1C010.d.1.a
Polygraphs	3A981
Polymeric or metallo-organic materials	1C007.e
Polymeric substances	1C111.b
Polymeric substances, non-fluorinated	1C008
Polymeric substances, non-fluorinated	1C998
Polysilazanes, precursor for silicon nitride	1C007.e.2
Polythiophene	1C001.c.3
Porcine enterovirus type 9	1C352.a.11



Do I Need a License?

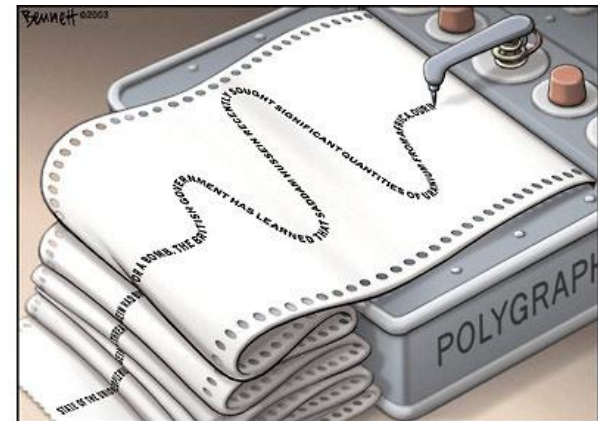
The Steps-example

#1 Know & classify your product: **polygraph equipment for law enforcement**

#2 Is it on the CCL? **YES**

#3 Read description & determine its ECCN

#4 Determine license requirements on the CCC





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Category 7 - Navigation and Avionics	PDF	ASCII	WPD	09-07-10
Category 8 - Marine	PDF	ASCII	WPD	06-28-10
Category 9 - Propulsion Systems, Space Vehicles and Related Equipment	PDF	ASCII	WPD	09-13-10

Do I Need a License? The Steps-example

#1 Know & classify your product: **polygraph equipment for law enforcement**

#2 Is it on the CCL? **YES**

#3 Read description & determine its ECCN **3A981** ✓

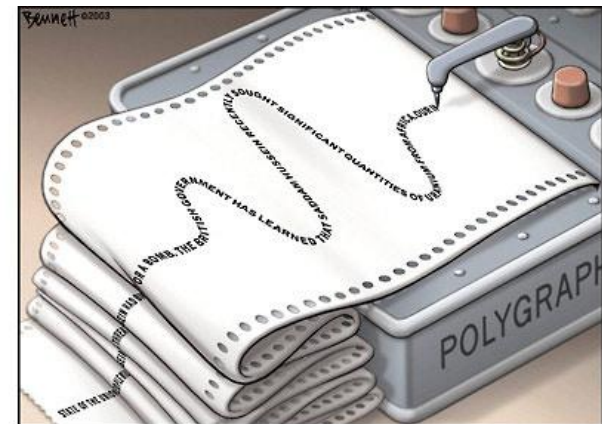
#4 Determine license requirements
Reason for Control: **CC (Crime Control)**

Control(s)

CC applies to entire entry

Country Chart

CC Column 1



Do I Need a License? Cross Check the CCC



Commerce Country Chart

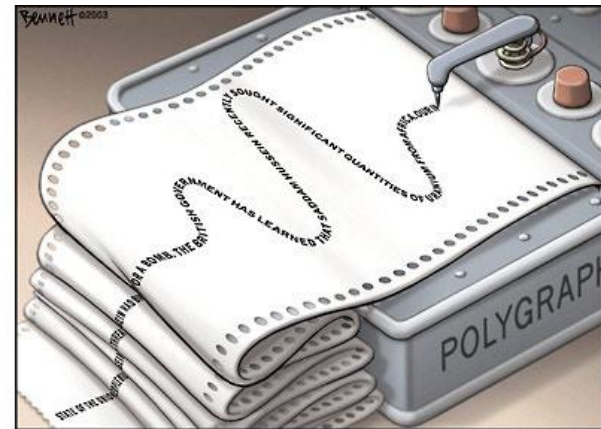
Reason for Control

Countries	Chemical & Biological Weapons			Nuclear Nonproliferation		National Security		Missile Tech	Regional Stability		Firearms Convention	Crime Control		
	CB	CB	CB	NP	NP	NS	NS	MT	RS	RS	FC	CC	CC	CC
	1	2	3	1	2	1	2	1	1	2	1	1	2	3
Guyana	X	X		X		X	X	X	X	X	X	X		X
Haiti	X	X		X		X	X	X	X	X	X		X	X
Honduras	X	X		X		X	X	X	X	X	X	X		X
Hong Kong	X	X		X		X		X	X	X		X		X
Hungary	X					X	X	X	X					
Iceland	X			X		X	X	X	X					
India	X	X	X	X	X	X	X	X	X	X		X		X
Indonesia	X	X		X		X	X	X	X	X		X		X

Do I Need a License?

The Steps-example

- Can you ship to Iceland without a license?
 - Yes
- Can you ship to Honduras without a license?
 - No



Do I Need a License? Cross Check the LISTS

■ #5 Cross check the recipient on the lists


- Denied Party
- Specially Designated Nationals
- Unverified
- Non-Proliferation Sanctions
- More & changing every day

Last Modified: Monday, March 14, 2011

Name and Address	Effective Date	Expiration Date	Type of Denial
A. ROSENTHAL (PTY) LTD. P.O. BOX 44198, 65 7TH STREET, DENMYR BUILDING, LINDEN, ZA	08/08/1997	08/08/2017	standard
Appropriate <i>Federal Register</i> Citations: 62 F.R. 43503 8/14/97			
A. ROSENTHAL (PTY) LTD. P.O. BOX 97 292 INDEPENDENCE AVENUE, WINDHOEK, NA	05/20/1997	05/29/2017	standard
Appropriate <i>Federal Register</i> Citations: 62 F.R. 30841 6/5/97			
ACE, IAN 4 MIMOSA WAY, PINELANDS, ZA	08/08/1997	08/08/2017	standard
Appropriate <i>Federal Register</i> Citations: 62 F.R. 43503 8/14/97			
ADT ANALOG AND DIGITAL TECHNIK 8019 NIEDERSEEON, HOUSE 21, DE	09/10/1981		standard
Appropriate <i>Federal Register</i> Citations: 46 F.R. 46154 9/17/81 and 46 F.R. 19290 3/30/81			
AGNESE, ANDREE 22 RUE DU 11 NOVEMBER 1918, PANTIN, FR	07/11/1985		standard
Appropriate <i>Federal Register</i> Citations: 50 F.R. 29244 7/18/85			
AGNESE, HELENE 37 RUE DE LA QUINTINIE, PARIS, FR	07/11/1985		standard
Appropriate <i>Federal Register</i> Citations: 50 F.R. 29245 7/18/85			
AGNESE, SABA 37 RUE DE LA QUINTINIE, PARIS, FR	07/11/1985		standard
Appropriate <i>Federal Register</i> Citations: 50 F.R. 29244 7/18/85			
AHMAD, TARIQ 612 BUSINESS CENTRE MUMTAZ HASAN ROAD OFF I.I. CHUNDRIGAR ROAD, KARACHI, PK	04/17/2009	04/17/2016	standard
Appropriate <i>Federal Register</i> Citations: 74 F.R. 18690 4/24/09			
AHMED, TARIQ	04/17/2009	04/17/2016	standard

<http://www.bis.gov/complianceand enforcement/liststocheck.htm>

#5 Lists to Check



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Lists To Check

The following lists may be relevant to your export or reexport transaction. For your convenience, the agencies responsible for these lists have consolidated these lists into one downloadable file. To access the consolidated list, go to www.Export.gov.

[Denied Persons List](#)
A list of individuals and entities that have been denied export privileges. Any dealings with a party on this list that would violate the terms of its denial order is prohibited.

[Unverified List](#)
A list of parties where BIS has been unable to verify the end-user in prior transactions. The presence of a party on this list in a transaction is a "Red Flag" that should be resolved before proceeding with the transaction.

[Entity List](#)
A list of parties whose presence in a transaction can trigger a license requirement under the Export Administration Regulations. The list specifies the license requirements that apply to each listed party. These license requirements are in addition to any license requirements imposed on the transaction by other provisions of the Export Administration Regulations.

[Specially Designated Nationals List](#)
A list compiled by the Treasury Department, Office of Foreign Assets Control (OFAC). OFAC's regulations may prohibit a transaction if a party on this list is involved. In addition, the Export Administration Regulations require a license for exports or reexports to any party in any entry on this list that contains any of the suffixes "SDGT", "SDT", "FTO", "IRAQ2" or "NPWMD".

[Debarred List](#)
A list compiled by the State Department of parties who are barred by §127.7 of the International Traffic in Arms Regulations (ITAR) (22 CFR §127.7) from participating directly or indirectly in the export of defense articles, including technical data or in the furnishing of defense services for which a license or approval is required by the ITAR.

[Nonproliferation Sanctions](#)
Several lists compiled by the State Department of parties that have been sanctioned under various statutes. The Federal Register notice imposing sanctions on a party states the sanctions that apply to that party. Some of these sanctioned parties are subject to BIS's license application denial policy described in §744.19 of the EAR (15 CFR 6744.19).

Export License SNAP-R



Address <https://snapr.bis.doc.gov/snapr/> Go Links »

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Licensing		
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Don't Forget! Filing the EEI with the AES



The **1** Rule for EEI

- ◆ ONE USPPI shipping their merchandise, to
- ◆ ONE foreign consignee, on
- ◆ ONE carrier moving the product out of the U.S., on ONE day,
- ◆ Valued at over \$2,500 per Schedule B number or when a license is required
- ◆ **Any product requiring a license must be filed regardless of value.**



Foreign Regulatory Compliance-The Other Side



- Before agreeing to ship your commodity, you should review:
 - U.S. laws that might affect your shipment to that country.
 - destination country's regulations
 - destination country's import license requirements



U.S. Laws That Might Affect Your Shipment

- OFAC-Office of Foreign Assets Control
- FCPA-Foreign Corrupt Practices Act
- Anti-boycott
 - Exporters must report any requests to participate in a boycott (e.g., of Israel) to the Bureau of Industry and Security quarterly. Check Letters of Credit!

Foreign Regulations on The Other Side



- **How do regulatory requirements impact your ability to introduce products into global markets?**
 - Government Requirements?
 - Legal establishment of company in the country required?
 - Is partial country ownership required?
 - Standards or Licensing ?
 - ANSI UL 60950 is an national standard as is EN 60950 – both are based on IEC 60950 an international standard
 - Recognition of Test Results?
 - Must test In country or accept MRA-Mutual Recognition Agreements?
 - Design Changes Needed?
 - Labeling in metrics? In a foreign language?

Do These Look Familiar?



Foreign Marks-CE



- Mandatory in the EU, only mark that allows free access within the EU
- Conformité Européen
- Can be self certified
- In most cases requires ISO9000



Foreign Marks-WEEE

- **WEEE-Waste of Electronic & Electrical Equipment specifically for waste disposal**
- **WEEE product producers have to:**
 - “Take back” products for proper disposal
 - Make arrangements with local disposal system
 - Fees to cover disposal costs
 - Use a special disposal symbol on the product



Foreign Marks-RoHS

- **RoHS-Restriction of Hazardous Substances is specifically for safety**
- **Restriction of the use of Hazardous Substances directive:**
 - Covers similar list of products as WEEE
 - Requires manufacturers to limit use of
 - Lead
 - Mercury
 - Cadmium

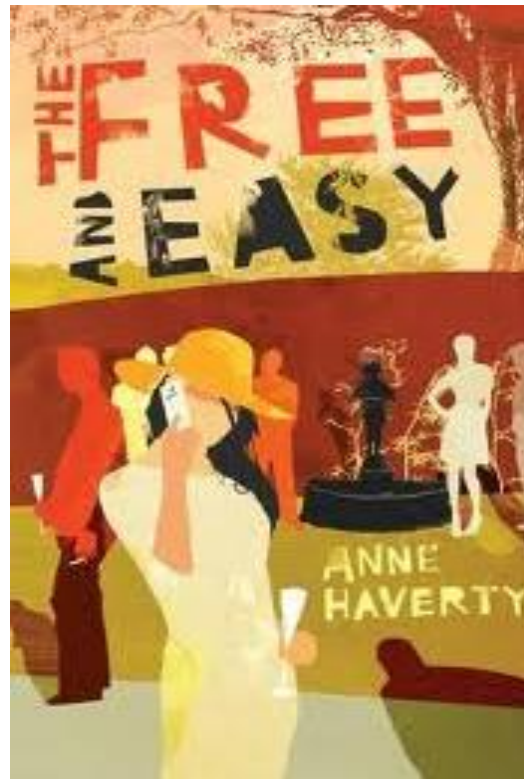


Foreign Marks-CCC

- **China Compulsory Classification**
- Before being marketed, imported, or used, a product falling under the CCC Catalog must be certified by a certification body designated by the Chinese regulatory bodies.
- There are over 100 categories of products covered. More to be added in the near future.



The End of:



Penalties\$\$\$\$\$\$\$\$



*Are stripes your most
flattering look?*

FTAs-Free Trade Agreements

- Free Trade Agreements are like women:
 - Can't live with 'em
 - Can't live without 'em



Red Flags?

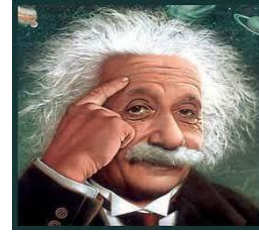
- ❖ The customer or its address is similar to one of the parties found on the Commerce Department's [BIS's] list of denied persons.
- ❖ The customer or purchasing agent is reluctant to offer information about the end-use of the item.
- ❖ The product's capabilities do not fit the buyer's line of business, such as an order for sophisticated computers for a small bakery.
- ❖ The item ordered is incompatible with the technical level of the country to which it is being shipped, such as semiconductor manufacturing equipment being shipped to a country that has no electronics industry.





- ❖ The customer is willing to pay cash for a very expensive item when the terms of sale would normally call for financing.
- ❖ The customer has little or no business background.
- ❖ Routine installation, training, or maintenance services are declined by the customer.
- ❖ Delivery dates are vague, or deliveries are planned for out of the way destinations. The shipping route is abnormal for the product and destination
- ❖ A freight forwarding firm is listed as the product's final destination.





Skill

- What are the key points of this session?
- Name the acronyms or terms that are important to take away.
- What are the key questions to ask?
- What are the next steps?
- What are the red flags to watch out for?
- Any great tidbit of information?



Sources



- AES
 - <http://www.census.gov/foreign-trade/aes/index.html>
- BIS LISTS
 - <http://www.bis.gov/complianceandenforcement/liststocheck.htm>
- CCC Mark
 - http://www.export.gov/china/exporting_to_china/ccc.asp
- CE Mark
 - <http://www.ce-marking.org>
- Adrienne Barumiller, Braumiller Schulz, LLP, Dallas, TX
- Michelle Schulz, Braumiller Schulz, LLP, Dallas, TX