

# Foreign Purchase Guidelines

For OSU Purchasing

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## INTRODUCTION

The following is a narrative describing the procedures and terms used in the importation of products for Oklahoma State University. The information presented here is the distillation of my experiences and recent information gleaned in research of international terms of sale, or so called Incoterms. I suggest that this paper be used only as a working guide for the next procurement with those experiences and any new developments to be additive. References are cited herein for further consultation and study.

We begin by considering whether importing foreign goods will be cost effective. The net price of the goods may be enticing, but the cost to land those goods on our doorstep may not be so alluring.

## COSTS TO IMPORT

At OSU, except for unusual circumstance, we always require orders to be quoted delivered, or “landed,” on our dock. “Our dock” may sometimes physically be our agent’s. The cost of every stop or operation along the way, planned and unplanned, is included in the landed cost.

By unplanned, we mean circumstances such as an unexpected quarantine of a plant or animal product. Other examples might be the warehousing of the item until classified for entry, if shipped without being classified, or warehousing until the country of origin is identified.

Doing the research and planning before ordering the goods can avoid most unplanned costs. Unplanned cost attributed to the seller should be charge back but may have to be paid by our agent, and our agent by us, to move the product to our dock.

A break down of landed cost would look like this:

- Equipment costs (Basically the cost to manufacture and priced “Exworks.”)
- Value Added Tax (See definition in Appendix)
- Transportation cost including insurance
  - Pre-carriage- (Sellers plant to international carrier at port of export)
  - Main-carriage- (International transportation from port of export to port of entry)
  - On-carriage- (Delivery from port of entry to final destination)
- Customs Brokerage (Will include any warehousing, transportation, fees and/or surcharges, import duty, plus the broker’s fee. See Broker’s Services, below.)

## **CLEARING CUSTOMS**

### **CUSTOMS BROKERAGE**

UPS Supply Chain Solutions, formerly Fritz, Inc., has power of attorney to act as Oklahoma State University's agent to process goods through Customs and expedite delivery to the end user. Most shipments, where practical, are routed by air. We usually require suppliers to ship to Oklahoma State University, c/o UPS Supply Chain Solutions, Dallas/Ft. Worth International Airport POE, Ph 972/304-6553. It is important that the phone number be provided along with the name of a contact person if available. If arriving by ocean or other means it is still possible to indicate Oklahoma City or Tulsa as the Port of Entry, if practical. If not practical, UPS Freight Services can help plan the most appropriate POE and arrange transportation to the destination.

UPS Supply Chain Solutions' mailing address:

*UPS Supply Chain Solutions  
660 Fritz Drive  
Coppell, Texas 75019  
Ph: 972 304 6553  
Fx: 972 691 6082*

### **BROKER'S SERVICES**

The broker receives the cargo from the carrier and presents it to US Customs on behalf of the importer for inspection and classification. The classification, based upon the Harmonized Tariff, determines the amount of any import duty. The Customs Broker holds the importer's power of attorney and bond that is required by the Customs Service and acts as the importer's agent paying all the necessary bills to get the goods accepted and released by Customs. When authorized they may make arrangements for on-carriage delivery to the final destination. It is important to have a good business relationship with the Customs Broker and have the names and phone numbers of the individuals who service the importer's account.

### **BROKER'S FEES**

Broker's fees include:

Basic Brokerage  
FDA clearance (if required)  
Additional classifications, per classification (in excess of 3)  
Dock/Airline inspection service

Our rates, on file in the OSU Stillwater Purchasing office, are good for clearance at any U.S. port. Also the following may be included if paid on our behalf by UPS Supply Chain Solutions:

Local delivery charge: Varies, based on weight.  
Duties and taxes: Varies, based on commodity.  
Any other fees that are paid on our behalf by UPS Supply Chain Solutions.

## CLASSIFICATION OF GOODS

It is important to determine the classification of the goods before ordering so that the duty and landed cost can be approximated. The following is from the U.S. Customs Service web site in an article regarding changes brought about by NAFTA, "...These modernization provisions have fundamentally altered the relationship between importers and the Customs Service by shifting to the **importer** the legal responsibility for declaring the value, classification, and rate of duty applicable to entered merchandise." (The emphasis is mine.) For this reason, the purchase order should provide and instruct the vendor to indicate the Harmonized Tariff Schedule (HTS) classification on the commercial, or proforma, invoice that accompanies the goods. The vendor may be able to assist with classification if they have exported the same goods to the US in the past. If not, you may contact your customs broker for assistance in determining HTS classification and rates. Access to the Harmonized Tariff Schedule is available on the United States International Trade Commission website at <http://www.usitc.gov/tata/hts/bychapter/index.htm>.

## DUTY FREE ENTRY

Not all imported goods are taxed. However, it is best to assume that a duty will be imposed until it is determined conclusively otherwise.

### Scientific Instruments or Apparatus for Nonprofit Educational and Scientific Institutions

Duty free entry may be available for scientific instruments or apparatus for **nonprofit** institutions under 15 CFR 301. Criteria for duty free entry have to do with the non-availability of an instrument with an equivalent scientific value being manufactured in the United States. Details are available at the following URL [http://www.access.gpo.gov/nara/cfr/waisidx\\_00/15cfr301\\_00.html](http://www.access.gpo.gov/nara/cfr/waisidx_00/15cfr301_00.html). The key here is "nonprofit." The only application that OSU has been denied, to date, was one where a local for-profit company would be allowed the occasional use of the equipment.

Briefly, it is necessary to fully describe the instrument and its intended use. Measures taken to determine that no domestic equivalent is available must also be described. This information with supporting documents must be submitted on International Trade Administration form ITA-338P. This form with complete instructions is available at URL <http://ia.ita.doc.gov/sips/sipsform/ita-338p.pdf>.

From the instructions, "Five copies of the form, including relevant supporting documents, must be submitted. One copy of the form shall be signed in the original by the person in the applicant institution under whose direction and control the foreign instrument will be used and who is familiar with the intended uses of the instrument. The remaining four copies of the form may be copies of the original. Attachments should be fully identified and referenced to the question(s) on the form to which they relate." According to the government's currently published estimate it should take approximately two hours to complete the application. My experience is that it will take longer in order to explain the

need and get the cooperation and written responses from the using department and end user.

Again, it is important to first research the Harmonized Tariff Classification to determine whether there will be a duty and, if so, how much? A call to the Customs Broker will be helpful to confirm the amount for the chosen classification. Not all imports carry a tariff and tariffs vary. The savings from the application may or may not be worth the administrative costs to apply for duty free entry.

The application must be mailed per the instructions to the U.S. Customs Service. Once approved by Customs a letter will be issued indicating their approval and stating that the application has been forwarded to the U.S. Department of Commerce. Upon reaching a decision the Department of Commerce will issue a letter with a copy of their decision that will be published in the Federal Register. The total process normally requires no less than sixty days.

## **SHIPPING TERMS**

### **INCOTERMS**

Terms of international trade apply to all foreign purchases. These terms are coordinated and kept current through the efforts of the International Chamber of Commerce. “Incoterms” is an acronym for International Commercial Terms. At this writing Incoterms 2000 is applicable and should be referenced as such when the terms are used. Information on these terms is available in the publication Incoterms for Americans, by Frank Reynolds, ISBN: 1-886457-06-9, and through the “Shipping Terms Glossary / Incoterms” web site [www.iccwbo.org](http://www.iccwbo.org). The following touches on a few of the terms with which we have had some experience.

The citation “FOB Destination” is referred to as a preamble to the term used. The preamble is followed with the geographic location. FOB terms are used rather loosely in the US and it is important to study the meaning behind the preamble. What seems to be true upon reading the preamble may not reveal all that it implies. For instance, our usage of FOB can mean we take title to the goods at whatever place we name regardless of the transportation arrangements. In international terms FOB means only one thing, Free on Board (an oceangoing ship) at the named port of shipment, although it could be argued that the shipper’s responsibility ends when the goods are placed into reach of the ship’s loading tackle since he has no control over when it is loaded. Another term, CIF, means that the seller pays the cost, insurance and freight to the named destination port. The “cost” meaning the selling price of the goods at the factory. However, the risk is the buyer’s once the goods pass the ship’s rail. These terms are used solely for seagoing shipments.

When requesting competitive quotations or bids from foreign suppliers we use DDP (Delivered Duty Paid). Using this term places the responsibility for delivering the product to our continental U.S. (CONUS) doorstep. Again, this is good only for

competitive situations where bids from various parts of the world and the U.S. will be compared.

In non-competitive situations we might consider that the supplier may prefer not to be responsible for clearing the goods through Customs and the on-carriage delivery. Although it may seem the most convenient to us, how would we know if the proper classification is used and passed through without something added for the trouble?

Except for shipments under DDP terms, when importing a single shipment, until it arrives and all the bills are in, we have no way of knowing the landed cost of the goods. But, those charges would probably be incurred regardless of whether the supplier or the buyer books the shipment through Customs and on-carriage to the destination. Left to the seller those costs would have to be guesstimated and padded to ensure that he doesn't lose money.

In other than competitive bid situations and the classification has been determined, the term DDU (Delivered Duty Unpaid) should be used, the Port of Entry named and shipped in care of our Customs Broker at the POE. This allows us to be sure that the goods are processed under the proper classification and billed to us by our broker. Also, if it is determined that an exemption from the duty applies application can be initiated. DDU also gives us the choice of specifying delivery to our doorstep. If, for instance, we specify DDU (Incoterms 2000) Oklahoma State University, Central Receiving Station, Stillwater, OK, the supplier is responsible for everything but the duty.

At OSU we have most commonly shipped by air. The term CIP (Carriage and Insurance Paid) may be used for any mode of transport, except water, and may be appropriate for most air shipments. Again, the seller is required only to insure at the minimum amount, which may or may not be enough. But if there is any doubt the required amount should be agreed upon and, if necessary, we should buy our own coverage irrespective, or outside of, the Incoterm. This term does get the goods to the destination at the seller's risk. As Frank Reynolds points out in his book *Incoterms for Americans*, however, the seller is not responsible for the condition of the goods after they are delivered to the carrier.

Another word about insurance. All insurance to cover loss in transit may be called "marine cargo insurance." It is my understanding that in international law if a ship is severely damaged the ship line can collect reimbursement for their loss from the owners of the cargo. Or, if some of the cargo must be jettisoned the owners of the remaining cargo must reimburse the owner of the lost cargo. Therefore, if goods are shipped CIF (Cost, Insurance and Freight) for instance, the cost of shipping and insurance to the destination are to be paid by the seller. However, since the risk passes to the buyer when the goods pass the ship's rail we could be at risk for a fraction of the value of the ship itself. We must either only accept terms that transfer title at the destination, or buy sufficient insurance to cover such risk.

There are many other terms, or “preambles” that are common to international shipping. Be sure to research Incoterms 2000 for the term that is most appropriate for the application. “FOB” should not be used in international trade except in the context of the international definition. Do not rely on the seller to know and understand what is meant by our choice of Incoterm. Verbiage should be used on the purchase order to make our requirements clear.

Commonly the shipper will quote using the Incoterm “Ex Works.” Essentially the same as our “FOB Shipping Point,” this means that the goods are made available for transport at the named place, usually the seller’s plant, with no arrangements having been made for export or transport. We need to carefully study the seller’s terms to make sure that we understand the literal meaning and take the necessary corrective measures to negotiate and reach agreement on acceptable terms for the purchase order. By accepting goods in the foreign country we also accept the responsibility for export clearance, which could bring any amount of unexpected grief.

#### **BILL OF LADING**

The Department of Treasury defines bill of lading as follows: “A bill of lading is a document which is issued by the transportation carrier to the shipper acknowledging that they have received the shipment of goods, that they have been placed on board a particular vessel which is bound for a particular destination. It states the terms under which the goods are to be carried. Separate bills of lading are issued for the inland or domestic portion of the transportation and the ocean or air transportation, or a through bill of lading can be obtained covering all modes of transporting goods to their destination.”

Since we normally require the goods to be delivered by the seller to our destination the bill of lading is more the concern of the seller. However, it is important for us to be aware of all the steps and agreements required for the seller to make delivery. If there is a letter of credit involved in the transaction the bill of lading will normally be “negotiable” meaning that the seller can re-route the goods and/or change the consignee at any time.

#### **CURRENCY**

When bidding competitively USD currency must be specified so that comparisons may be made with the other bids. However, when a seller must convert to USD and commit for a period of time it may need to pad its quote to allow for fluctuating exchange rates.

Each case needs to be evaluated on its own merits. In some cases it may be in our best interest to allow the seller to quote in its own currency when a competitive situation does not exist. A web site that I frequently use for exchange rates is [www.x-rates.com](http://www.x-rates.com). “The values on this site are gathered from the Federal Reserve Bank of New York, representing the 12 noon buying rates and the International Monetary Fund, according to their availability.”

## **COUNTRY OF ORIGIN**

Many items to be imported must be physically marked with the “Country of Origin.” The purpose, the marking, according to the U.S. Treasury’s web site, is “To inform the ‘ultimate purchaser’ in the United States of the country in which the imported article was made.” It also states that, unless the shipping container can be easily opened to view the marking on the product inside, the outside of the container must also be marked. The marking must be of a kind that is permanent until removed and certain items must be mark in a specified manner. For more in depth information and lists of items not requiring Country of Origin marking please see the U.S. Treasury web site at [http://www.cbp.gov/xp/cgov/import/international\\_agreements/free\\_trade/nafta/customs\\_procedures/country\\_of\\_origin\\_marking.xml](http://www.cbp.gov/xp/cgov/import/international_agreements/free_trade/nafta/customs_procedures/country_of_origin_marking.xml). The point to be made here is that, without the required marking, there will most certainly be a delay processing the shipment through Customs and an added expense in the form of additional duties.

## BIBLIOGRAPHY

- Barron's Dictionary of International Business Terms
- European Union in the US, The web site of, (<http://www.eurunion.org/legislat/VATweb.htm>)
- Incoterms for Americans (Fully Revised for Incoterms 2000), Copyright 1999 by International Projects, Inc., Toledo, OH, ISBN: 1-886457-06-9
- International Chamber of Commerce, The web site of, (<http://www.iccwbo.org/>)
- U.S. Customs Service, The web site of, (<http://www.customs.ustreas.gov/>)
- World Customs Organization, The web site of, (<http://www.wcoomd.org/ie/index.html>)

## APPENDIX

Value Added Tax (VAT) is a general consumption tax assessed on the value added to goods and services.

It is a *general tax* that applies, in principle, to all commercial activities involving the production and distribution of goods and the provision of services. It is a *consumption tax* because it is borne ultimately by the final consumer. It is not a charge on companies. It is *charged as a percentage of price*, which means that the actual tax burden is visible at each stage in the production and distribution chain. It is collected *fractionally*, via a system of deductions whereby taxable persons (i.e., VAT-registered businesses) can deduct from their VAT liability the amount of tax they have paid to other taxable persons on purchases for their business activities. This mechanism ensures that the tax is *neutral* regardless of how many transactions are involved. (See [The Taxation Policy in the European Union](#).) REF: <http://www.eurunion.org/legislat/VATweb.htm>