



Foreign Agricultural Service

GAIN Report

Global Agriculture Information Network

Voluntary Report - public distribution

Date: 2/12/1999

GAIN Report #IT9708

Italy

ATO ACTIVITIES reports

Ensure Payment for Your Exports

1999

Prepared by:

Robert H. Curtis

Agriculture Trade Office - Milan

Drafted by:

Robert H. Curtis

Report Highlights:

This report attempts to summarize the most important procedures new exporters and companies new to a market should utilize to ensure they receive payment for their exports.

Two important points to remember:

--If the deal smells fishy, it probably is, and

--If a shortage of financial guarantees or credit would prevent you from conducting business with a company across town don't lower your standards for an overseas company.

Includes PSD changes: No
Includes Trade Matrix: No
Unscheduled Report
Milan ATO [IT1], IT

ENSURE PAYMENT FOR YOUR EXPORTS

Table of Contents	PAGE
Introduction	2
If it smells fishy, it is probably a fish!	2
Exporter Tools	2
Contracts	2
Irrevocable Letter of Credit	3
Bank Letter and Escrow Account	3
Ship FOB	3
Ship only after full or partial payment	3
Contact a lawyer when problems arise	3
Required Importer Information & Checklist	4

Introduction

Developing long-term international business relationships is usually rewarding for all participants. Conducting international business is a relatively easy activity with the use of telephones, faxes and the Internet. However, international business has a few additional risks to conducting business in the United States. The time between exporting a product and receiving payment can seem like an eternity. Sometimes, unfortunately it is an eternity. We attempt to identify ways to reduce your risks and ensure you receive payment for your exports. Common sense, caution, and these guidelines will reduce your risk of being fleeced by an importer. Nevertheless, nothing can absolutely guarantee your profits; there will always be some risk involved in your business transaction.

If it smells fishy, it is probably a fish!

A simple rule to follow when exporting is: if a business deal smells fishy, it probably is. You are putting at risk your money or your firm's money when you enter into a business transaction. There is little the U.S. Government can do to ensure that foreign businessmen pay you when you enter into a private business arrangement. It is your responsibility to ensure that you obtain the same types of guarantees you would require if you were selling a product to another business across town or in another state.

Exporter Tools:

Following are a couple of tools and combinations of tools that exporters use to reduce their export risk:

- * contracts;
- * irrevocable Letters of Credit;
- * Bank letter and escrow account from the importer,
- * FOB shipments;
- * or, as often is the case with fresh fruits and vegetables, ship only after receiving full payment or partial payment with the rest of the payment due within 48 hours after receipt of the shipment.

Contracts

It is amazing how many companies that run into payment problems don't have signed contracts with importers. A contract provides you a solid basis for establishing claim to payment and gives you certain rights that can be used in nearly any court of law. (Note: There are countries where your contract and guaranties must be registered with the host country prior to shipment in order to establish their validity.) A contract can be signed by the importer then faxed to the exporter with the original copy being sent by international overnight courier. When there is no signed contract the exporter has a steep hill to climb as he attempts to prove to a foreign court system, often in a language he doesn't speak, that he shipped a certain amount of product for a certain price and the importer didn't pay him or didn't pay him the agreed upon amount. If a company refuses to sign a contract you may want to think very seriously before conducting further business.

Irrevocable Letter of Credit:

The irrevocable Letter of Credit is good in most cases. However, many major trading companies state that they still run into problems with this tool. Often, lawyers need to write a different Letter of Credit for each shipment and transaction. Some importers reportedly have lawyers that avoid, delay or prolong payment/terms. Nevertheless, you still have a legal document for payment. The cost of establishing a Letter of Credit can be shared, covered by the exporter, or the importer.

Bank Letter and Escrow Account:

Major fresh fruit and vegetable exporters like to use a Bank Letter and Escrow Account. This is a letter from the importer to the bank stating that a certain quantity of money in their account is held in escrow to guarantee payment to the exporting firm. Normally, only a company that is very interested in conducting business on a long-term basis will provide this Bank Letter and Escrow Account. If there is any discrepancy in payment terms the exporter cashes in the Bank Letter for the necessary funds from the escrow account. The Bank Letter is often good for a year or two and doesn't have to be renegotiated for every contract or shipment. At expiration of the terms of the Bank Letter the escrow account is closed.

Ship FOB

Shipping bulk and non perishable commodities is relatively easy using FOB terms: load the ship when payment is received. Most small and medium sized businesses run into problems when they ship their perishable products CIF. The product arrives in port and the importer states that the quality or size is unsatisfactory and refuses to pay for the product. The exporter is left with the perishable product in a foreign port and you can be sure that this only happens when all the other importers in the country are on vacation.

Ship only after full or partial payment:

Many perishable product exporters conduct their first couple of business transactions with a new importer by shipping only after receiving full or partial payment (half the contract price at time of shipping) and the rest at time of delivery. If you get burned, you only lose half your shipment rather than the full value. If you have a contract, or letter of credit, you may still be able to obtain the rest of the money due.

Contact a lawyer when problems arise:

When you run into problems contact a lawyer in the importer's country to represent you. Also contact the Foreign Agricultural Service or Commercial Service at the U.S. Embassy or Consulate, they will provide you a list of lawyers in the country if you require that information. (There is no guarantee about the lawyers' abilities or efficiency.) While U.S. Government officials are unable to represent the exporter or take possession of their shipment, they may be able to contact people within the government or the private sector to pressure the company into resolving the problem with you. They can warn other exporters that there are problems involved when conducting business with a particular company. They can also undertake the use of diplomatic pressure on the company, but this takes a long time and if the company is not trustworthy to begin with, it probably won't help your case anyhow.

Required Importer Information

When beginning a new international business relationship there is some basic information you should obtain on the importer, especially if you intend to export without a Letter of Credit or Bank Letter and Escrow Account.

If the response to any of these questions is unsatisfactory you risk not getting paid and should consider prior payment, a Letter of Credit or a Bank Letter and Escrow Account.

Importer Information Checklist:

1. Ask for U.S. references.
2. Check the importers name with U.S. Federal and State Export Agencies. (Note: this alone is no guarantee that this is a reliable business; we have been duped by some very smooth operators.)
3. Ask the importers if they have a credit or deposit relationship with a US bank or a foreign bank with US offices or branches.
4. Ask for bank references in the importer's country. Find out how long the importer has conducted business with the bank and how good the bank is. (Note: your domestic bank can often do this for a fee.)
5. Request your domestic bank provide a reference on the importer's bank to determine if it is a member of any international trade, credit sharing or other import/export association.

Usually, after a successful shipment and receipt of payment from a company, you may decide to be a little more lenient on the terms for your next shipment. However, if you still have any doubts or suspicions don't lower your payment terms until the company has satisfactorily demonstrated to you that it is a serious business.