

Using Third Parties

Martin Palmer

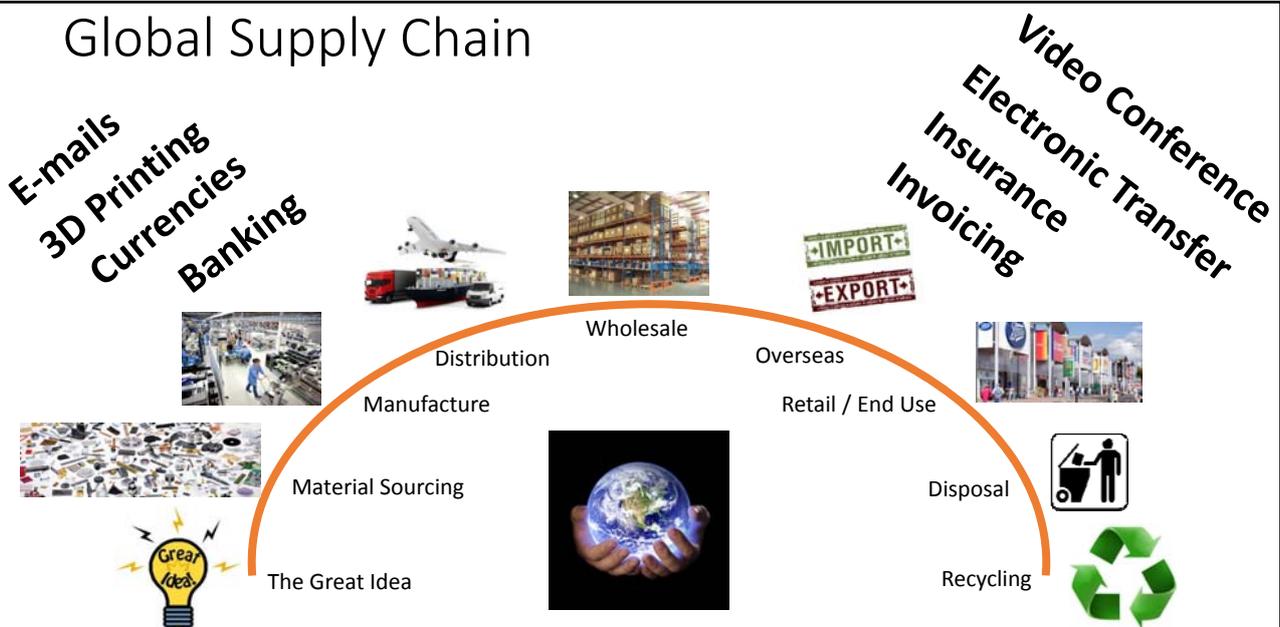
Agenda

- What is an Export?
- What is the Supply Chain?
- What Extra-Territorial and Cross Border issues do I need to consider?
- Common Red Flags
- How do I recognise a compliant service provider?

What is an Export?

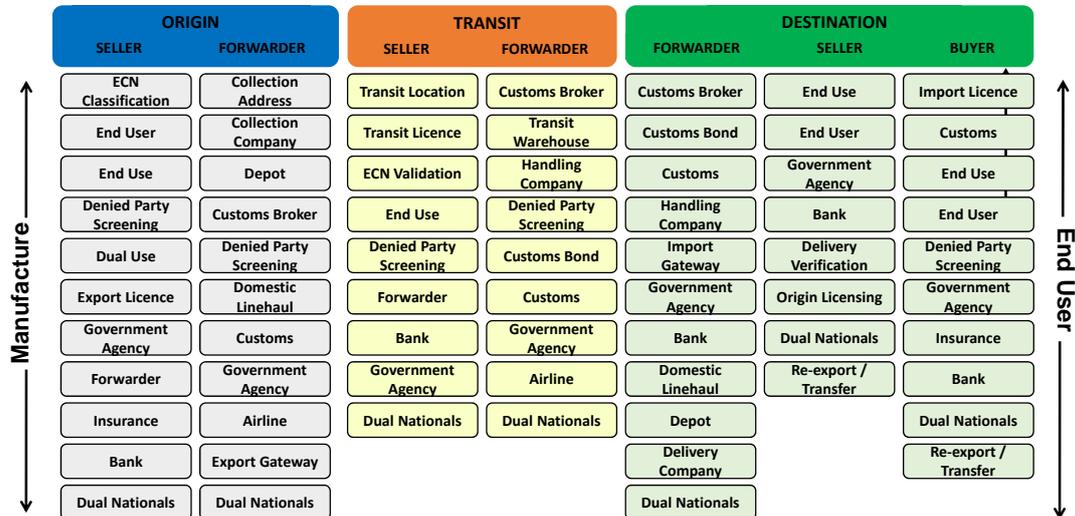
- Fundamentally, it is any item that is sent from one country (the 'country of exportation') to a foreign country (the 'country of destination'). The term 'item' however can cover hardware, software or technology (including physical goods, building materials, circuit boards, blueprints, design plans or technical information).
 - Items temporarily leaving the country
 - Gifts
 - Intra-company transfers
 - The means by which items are exported doesn't matter.
 - It could be regular mail or hand-carried, but also websites, email, fax, 3D Printing or a telephone conversation and for many countries the item doesn't have to physically leave the country at all
- * *Controls apply domestically particularly in relation to Restricted and Denied Parties.*

Global Supply Chain



Global Supply Chain Activities (one transit point only)

Global Freight Forwarder / Integrator



How the third party sees your commodities

Commercial Invoice					
Shipper/Exporter SLR Snapshot Ltd 1 The Bridge London EC1 4AJ United Kingdom		Date 17-April-2016	Invoice No. 123456		
Consignee Photo Happy PTY 234 Capital Street Kuala Lumpur 11712 Malaysia		Customer PO No. PO# 654321	Currency Used USD		
Intermediate Consignee		Country of Origin UK	BL / AWB No. GB123555666		
		Final Destination Malaysia	Export Route / Carrier ABC Express		
		Terms of Sale 30 days net	Terms of Payment 30 days net		
		Terms of Freight DDP	No. of Packages 1		
		Notes			
Item & Description	HS No.	Unit Value	Quantity	Weight: Kgs.	Value
Film	370400	\$3.00	5	25.00	\$25.00
Sub Totals			5	25.00	\$25.00
		Freight		\$36.00	
		Insurance		\$7.00	
		Total Value		\$67.00	
I hereby certify this commercial invoice to be true and correct.					
Shipper _____ Title _____ Date _____					

Shippers Description

Shippers HS Classification

Third Parties

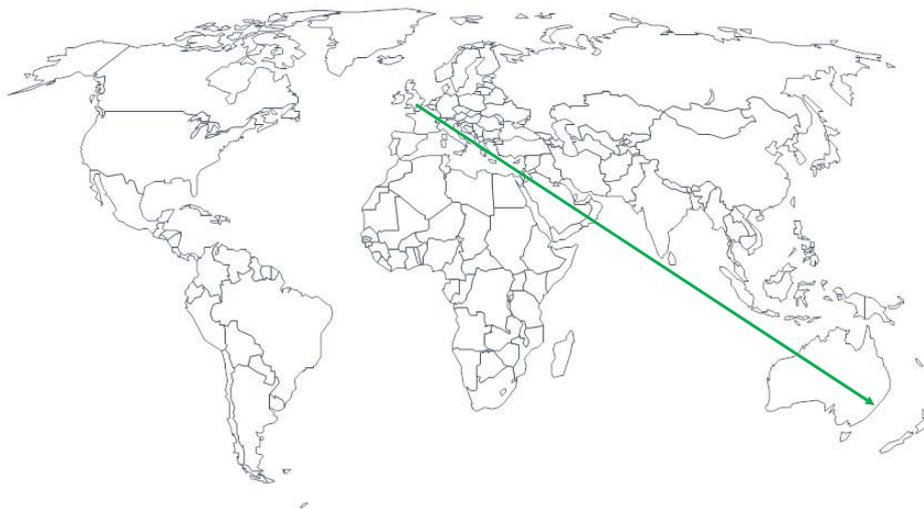
- Not the manufacturer
- Often thousands even millions of customers
- Tens of millions of commodities
- Rely on information supplied by the shipper
- Shipper is often NOT the manufacturer
- NOT an expert with regard to the technical nature of the commodity
- Often working with multiple jurisdictions and regulatory bodies

What Extra-Territorial and Cross Border Issues do you need to consider?

- Origin
- Technology
- Currencies
- Ownership
- 3D Printing
- Dual National / Expat / US Persons
- Transit Implications – Origin and Transit

No straight lines in transport!

Transit Implications UK to AU



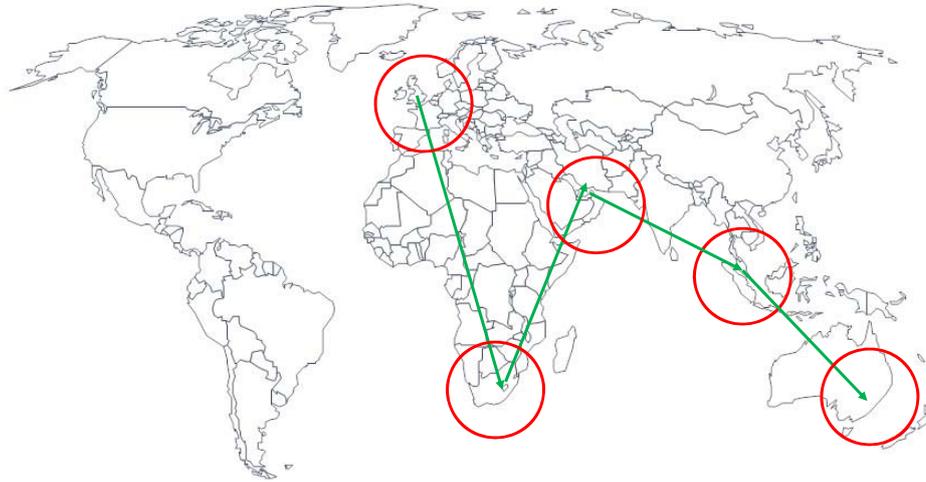
Transit Implications UK to AU - Air



Transit Implications UK to AU - Air



Transit Implications UK to AU – Deep Sea



Common Red Flags

- Cash payments
- Payment of freight costs by a third party
- Disproportionate freight costs
- Questionable paperwork (e.g. amended or inconsistent)
- Incompatible commodities
- Dubious or vague descriptions
- Unrealistic valuations
- Change of delivery address
- Delivery to an unusual address
- Use of hotels within a transaction
- Use of transport companies as consignees or receivers of shipments
- ‘Collected’ shipments
- Free trade zones
- First-time shippers

Export Violations Examples in Transportation

- 2009 - **DHL Express (USA)** - violating US Export regulations (Syria, Sudan and Iran)
Fine \$ 9.44 million
- 2012 - **Netherlands Freight Forwarding Co** – Ulrich Davis jailed for 6 months
- 2012 - **Fedex** had six violations of the Export Administration Regulations (EAR) relating to FedEx's provision of freight forwarding services to exporters.
Fine \$370k
- 2013 - **Brooklands International Freight Services** – Christopher Tappin jailed for 33 months for one count of aiding and abetting the illegal export of defence articles

Export Violations Examples in Transportation

- 2014 - **ARAMEX** Single violation for a unlicensed shipment to Syria.
Fine \$ 125K
- 2014 - **Kintetsu World Express (U.S.A.), Inc.** KWE, facilitated the export of three spiral duct production machines and related accessories, and valued at \$250,000, from the United States to China National Precision Machinery Import/Export Corporation.
Fine \$ 30K
- 2015 - **General Logistics International**– On four occasions GLI facilitated the unauthorized export of scrap metal to The Peoples Steel Mill, Pakistan.
Fine \$ 90K
- 2017 - **MYUS.com / Access USA Shipping LLC** – 150 violations to various US Export Control violations.
Fine \$ 27 million

Transport Companies can be Restricted Parties!

- Asian Aviation Logistics Co., Ltd., Bangkok 10250 Thailand
- NBC Navegan Bar International Transport Co. Ltd, *Tehran, Iran*
- Tex-Co Logistics Ltd, Kowloon, Hong Kong
- ACTeam Logistics Ltd, Hong Kong
- Sky Wings Airlines SA, Athens, Greece
- Russ Cargo Service GMBH, Kelsterbach, Germany
- Albrecht Import-Export, a.k.a., :
 - Elena Albrecht Import-Export, Heubach, Germany
- Russian Cargo Oy, Lappeenranta, Finland
- Eliron Logistics Oy, Vantaa, Finland

How do I recognise a compliant service provider?

- Customs Secured Supply Chain Programs
 - AEO – Authorised Economic Operator
 - C-TPAT – Customs and Trade Partnership against Terrorism
 - PIP, STP, Frontline, Stairway, etc.
- International Standards Organisation (ISO)
 - ISO 9001 (Quality), 19443 (Nuclear), 19600 (Compliance System), 37001 (Anti-Bribery), 30301 (Record Retention)
- Industry Standards
 - TAPA, IATA etc.

Thoughts and observations

- Does a Transport Service Provider have a responsibility to ensure compliance to European Export Control requirements?
 - In context of EU 428/2009 and EU 1382/2014 there are no direct or in direct references to the responsibilities of a transportation company in relation to a Dual Use export. Within EU 428/2009 transport services are referred to as “Ancillary Services” and in relation to “Brokering Services” are clearly excluded from responsibilities of the exporter.
- US Responsibilities of the Forwarding Community
 - Forwarding agents have compliance responsibilities under the Export Administration Regulations (EAR) even when their actions are dependent upon information or instructions given by those who use their services.

Clear Instructions to your Third Party

- Invoice Statement
- Separate Shipping Instruction when licences are involved
- Tell the third party what to do – Classification: Harmonized System, ECCN, ECN, Dangerous Goods etc
- **Do Not Assume That A Third Party Knows What To Do!**
- **They Are Your Goods and Your Responsibility!**

Thank you for your time

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