


# KEY OPPORTUNITIES AND RISKS IN INTERNATIONAL TRADE

The Ohio Manufacturers' Association



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# Key Themes

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- Major developments of the past few years
  - U.S. withdrawal from Trans-Pacific Partnership
  - COVID-19
  - Brexit
  - USMCA replacing NAFTA
  - Tariff Act of 1930 enforcement:
    - §232 steel and aluminum tariffs
    - §301 “China” tariffs (≈\$125B in duties collected to date)
    - §307 (forced labor/Withhold Release Orders)
  - Uyghur Forced Labor Prevention Act (guidance pending June 2022)
- Lowering costs and reducing risk
  - Customs valuation
  - Classification
  - Origin
  - Special Programs
- Identifying opportunities in cross-border operations
  - *Trade Profiler*

# Key Issues, Opportunities and Risks

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## Valuation

Customs valuation = determination of economic value of goods declared at import; constitutes the taxable basis for duties, VAT and other *ad valorem* fees/charges.

Applies to product plus royalties, licenses, patents, assists, R&D, and many other inter-/intra-company arrangements.

Strategies: “first sale” structures, duty recovery on transfer pricing adjustments

## Classification

The Harmonized System (HS) is an international nomenclature for the classification of products.

HS codes determine duty rates, admissibility, preferential access, quota, etc.

Strategies: tariff engineering, transformation, positioning, rulings, tariff exclusion

# Key Issues, Opportunities and Risks

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## Origin

Where an item is grown, assembled or processed is a primary determinant of how and which tariff will apply.

All trade agreements require a certain level of local value-added activity in order to obtain preferential treatment (i.e., reduced or zero tariffs) at import.

Strategies: FTAs, substantial transformation, triangulation, tariff exclusion

## Special Programs

Provide tariff/duty reduction, deferral, recovery and/or exemption. Require approval and oversight to operate, and demand rigorous processes and controls.

Demonstrate ability to proactively manage customs and trade activities, and regimes are largely similar across the world.

Strategies: HTS 9802, Free/Foreign Trade Zones, Bonded Operations, Drawback, Canada reman relief, Maquila, Inward/Outward Processing

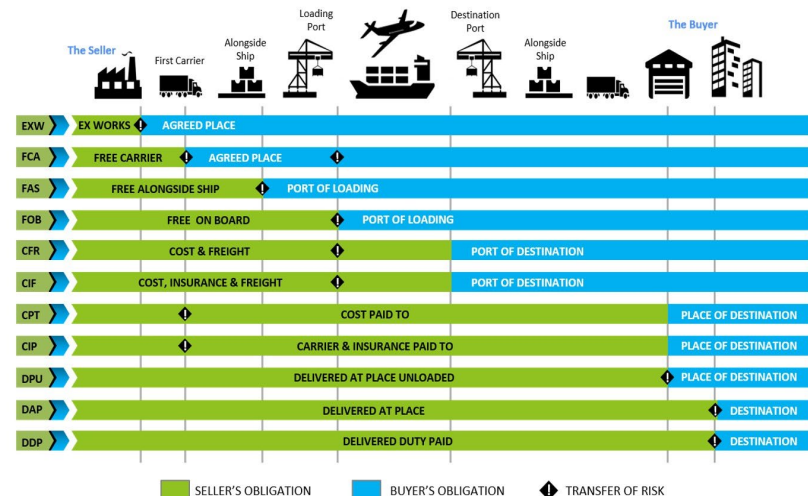
# Other Principal Considerations

There are other considerations in cross-border transactions and structures that can have important legal, financial and supply chain ramifications (e.g., create PE issues, unrecoverable VAT), including:

- Right to Make Entry
- Principal Party in Interest
- Title Transfer
- Consignments
- Risk of Loss

## INCOTERMS 2020

Point of Delivery and Transfer of Risk



# Identifying Opportunities: What to Watch For

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- High volume/value of trade activity with related parties and/or TP adjustments
- International restructuring/realignment initiatives (e.g., contract/toll manufacturing, buy-sell and commission arrangements)
- International royalties, license fees, distribution rights, cost-sharing agreements, assists
- Use of trade agreements and duty deferral/exemption programs
- Weak internal control/oversight
- Decentralized operations and decision-making authority
- Reliance on customs brokers & freight forwarders

# Identifying Opportunities: *Trade Profiler*

*Data-driven actionable intelligence to save cash and manage exposures*

**Issue:** Many companies lack comprehensive visibility into their cross-border trading activities, resulting in risks and missed cost-savings opportunities.

**Opportunity:** *Trade Profiler* processes up to 5 years of an importer's data to standardize, analyze and turn its trade information into actionable intelligence. RSM assesses activity such as *Quantity*, *Origin Country*, *HS Classification*, *Value*, *Related Party*, and *Customs Duties & Fees* to identify cost savings opportunities and exposures.

**Action:** Collect and analyze detailed import data to determine and quantify potential opportunities to lower tariff costs, reduce trading risks and improve supply chain performance.





# QUESTIONS AND ANSWERS



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