

## CHAPTER 3 –

### THE INTERNATIONAL TRADING HOUSE – A BRIEF DESCRIPTION and WHY YOU SHOULD USE THEM IF YOU CAN

Trading Houses are alternatives so doing it all yourself, and, since *you don't know what you don't know*, are certainly worth considering.

Since the creation of organisations such as the WTO (World Trade Organisation) which was the successor of GATT (General Agreement on Trade and Tariff) there is less protection in traditional trading markets.

In the face of this increasing competition and lessening protection, Trading Houses serve the exporters, importers, manufacturers and suppliers, whereas those bodies serve their market.

If you are not in a position to create your own in-house export/ import department, then Trading Houses serve a very useful purpose. They effectively service three main groups:

- Exporters to foreign companies;
- Importers to your country, and
- Act as intermediaries between offshore exporters and importers. They are staffed by people who are highly trained in international trade and who have set up well established reliable networks around the world.

They have literally done your research for you and can act swiftly and with agility, being able to dive into many markets simultaneously.

#### ***What is Their Value?***

Trading Houses do not manufacture, import or export anything. They are your intermediary service companies whose sole role is to add value to your trading activities.

They range over many markets, so for the exporter or manufacturer it is very important to choose the right one with the right kind of expertise for the market that you are trading into.

#### ***What Are Those Markets?***

The prime market for most is the domestic market. It is rare for companies to commence exporting to foreign markets before they have domestic expertise.

In my country, Australia, we have a Federal system and most of our trading laws, rules and regulations are regulated by federal statutes or uniformly agreed state laws, which means that there are no effective barriers to trade in Australia. Sale of Goods legislation is state based uniform law.

*The Australian Consumer Law* (formerly the Trade Practices Act) is mirrored by uniform state legislation and all states enact Fair Trading legislation which is common.

Generally speaking, most domestic trade is moved by rail or road freight, with air and sea freight making up the balance. Provided you have set up good relationships with your supplier or buyer, you can move most of your freight just by setting up arrangements with reliable freight forwarders or directly with transporters. You know your bank and have a good relationship and payment mechanisms are quite straight forward.

Legally, you can choose any jurisdiction in Australia for dispute resolution and the courts tend to recommend ADR (Alternate Dispute Resolution) as the preferred mechanism for resolving disputes, but access to the courts is easy and relatively inexpensive and all states have very experienced commercial judges and a commercial bar, so access to justice is not hard.

There are many experienced arbitrators and mediators in all cities, so the choices are wide.

But, as always you “don’t know what you don’t know” so always have a law firm on standby to go over your contracts.

In most cities, in Australia, you don’t need to go to the big end of town to find the right sort of expertise and the vast majority of law firms and accounting firms have people who are well versed in commercial contract law.

### *Going International*

International Trade, however, demands a greater reliance on the proven experts.

Once we begin to bring in new layers of complexity, it is highly advisable that you look around for the Trading House that suits you, because we then begin to introduce several new layers:

- Freight forwarders
- Customs Brokers
- Inspection and certification agencies
- Sea and air carriers
- Inland trucking or rail transport to the port or airport,

- International lawyers skilled in foreign contracts,
- Foreign representatives, distributors, joint venture partners and alliance partners, and
- Banks at either end of the transaction.

So again, if you are considering setting up an export department in-house, this is the kind of expertise that you need to bring in, and frankly, with most of the countries that you intend to export to, there are likely to be many instances of “*you don’t know what you don’t know*”.

Different challenges are presented: –

- Tastes and living standards, commercial and banking practices, currencies and, of course the language barrier are out there just waiting to ambush the unsuspecting trader.
- Tariff and non-tariff barriers have to be factored in; payment and pricing methods are more problematic, as are political, legal and commercial risks.
- Importers have to be alive to tariff and anti-dumping issues.

The organisation CCM (Consultation Contacts Monde) tells us that ..

*”to establish a presence in an overseas market requires a sustained effort of 2 – 3 years, at least. An export department dedicated to this task will succeed on condition that management gives it a status equal to that of a domestic sales department. The enterprise must adjust its marketing methods accordingly and earmark the budgets necessary to a long-term export development initiative.*

*The manufacturer has the alternative choice to use Trading Houses because of their expertise in international trade and their well-established networks over the years. Trading Houses specialise in specific markets with product lines that they know thoroughly...”*

Legal challenges are aplenty.

You might hire the best local lawyer to present you with watertight contracts only to find that the contract is not recognised in the country that you are exporting to.

You may ride up to the doors of your local Supreme Court and get a judgment against your recalcitrant buyer or supplier only to find that you can’t enforce the judgment in his country. In some countries, even in Europe, this can amount to a breach of sovereignty. Switzerland is one such example.

This is particularly the case with Asian countries who have a different legal system and a different view of contracting, as well as the fact that they tend to recognise their own country's citizens' rights before those of foreign business partners. (see Appendix 3).

There are many pitfalls.

We, in the established Western world, take for granted that we have highly developed legal systems, but tend to forget that “when in Rome ...” you are at the mercy of the Romans!!

Or when in Guang Xao, you may be at the mercy of a local district Court, which is situated in another place, where your Chinese partner actually lives, so if you decided to put a great big Beijing Arbitration clause in your shiny contract, that may end up being of no use to you. Please refer to our case study at Appendix 3 -

So, in finishing, your chosen Trading House will handle all of the following for you:

- Identification of Markets and Clients
- Definitions, Specifications and Product Adaptation
- Export Pricing
- Negotiation
- Financing, payment and collection
- Documentation
- Routing and Transport
- Claims
- Client and Customer Relations
- Risk Coverage, Insurance and Currency risk
- Customs Clearance
- Packaging and Warehousing and
- Consolidation

It can save you the considerable export formalities and risks. In effect the whole process can be looked at as if it were a normal domestic transaction. If you try to handle the whole thing yourself you only have yourself to blame if things go “pear-shaped”, and possibly no financial recourse.

For example, when I was an international cargo lawyer, I saw this actual situation.

Try landing a cargo of frozen prawns in California, that has “gone off” in the container during transit. Not only will you pay all of the landed costs, but you will be required to get your container offshore and dispose of the cargo. You can't just dig a hole and bury

them, and Mexico or Canada won't be interested, so you might just have to pay to tow that container out into the deep ocean and ditch those little fellas, then you have to fumigate the container, and get it back to its original port of destination. Lots of costs that may or may not be covered by your Marine Insurance policy. Bet you didn't know that!

You may or may not be able to get Trade Indemnity insurance for that type of risk. Your Trading House will know the answers provided that you have chosen the right one.

Don't assume, particularly as a new exporter that you can get cover for All Risks.

There are things like War Risks, Terrorism and Piracy risks that are covered by specific clauses known as the Institute Clauses that need to be attached to your contract of insurance. Similarly, there are specific sets of clauses that apply to particular types of cargoes, such as cocoa and coffee and other seeds, so a bit of general knowledge is not a bad thing. If in doubt, start at Wikipedia. It's a pretty good starting place.

There are hundreds of horror stories out there. Just ask any Marine Cargo Insurance lawyer, who will tell you his work is never dull!

Using an outsourced Trading House, you have recourse to their insurance cover and their legal resources if a dispute ensues.

Your responsibility as a supplier or exporter is then limited to getting these 4 things right.

Supplying goods: -

- Of the quality,
- In an agreed quantity,
- At the agreed price, and
- In the agreed time frame

as agreed with the Trading House, and your responsibility ends when you to get it to wherever the shipping chain commences, possibly as early as your factory door. That will give you peace of mind, if your job is done at the factory door and all the documentation stacks up.

All you do from there is keep in touch with your appointed contact at the trading house who will advise you during all the steps up to payment for the goods received, or otherwise, if there is an accident or incident of all the steps until your insurer pays out the claim. After that, other people will take over, swing into action and allow you to get on with your day to day business.

For its part of the bargain, the Trading House will:

- Identify the market
- Find buyers or agents
- Establish the product specifications in the light of market needs, standards and regulations and in accordance with the supplier's capabilities.
- Determine the appropriate and most cost-effective mode of transport and routing,
- Price the goods for delivery
- Determine the buyer's creditworthiness;
- Negotiate the transaction
- Carry out all the necessary steps in the logistics chain
- Obtain all necessary insurance coverage – trade risks, currency risks, maritime and intermodal transport
- Prepare all necessary trade and transport documentation
- Finance the transaction and pay for the goods and services
- Collect payment
- Sort out all claims
- Ensure all necessary follow-up
- maintain after sales service, updates on market conditions and developments, and, most importantly,
- Ensure that the on-going relationships are maintained at the highest levels with all sides.

Of course, a good Trading House will also be pro-active, providing its clients with news of opportunities, advice on moving forward, education programs, seminars, newsletters, publications and subscriptions, and introductions to other people in their networks.

Many trading houses act as principals in their own right, not as consultants, but as buyers in their own right making profits (and occasional losses) on transactions.

Others will act as manufacturers agents and represent a wide spectrum of other products.

Before the seller or buyer can garner the “international mentality” that is needed to trade in foreign markets, he is better off using the Trading House and putting his resources into those areas of his business that can, more effectively use those dollars – R&D, processes, productivity, new product development and competitiveness, and just getting on with business and having peace of mind.

### **Resources:**

A small selection of Australian Trading Companies or resources ...