

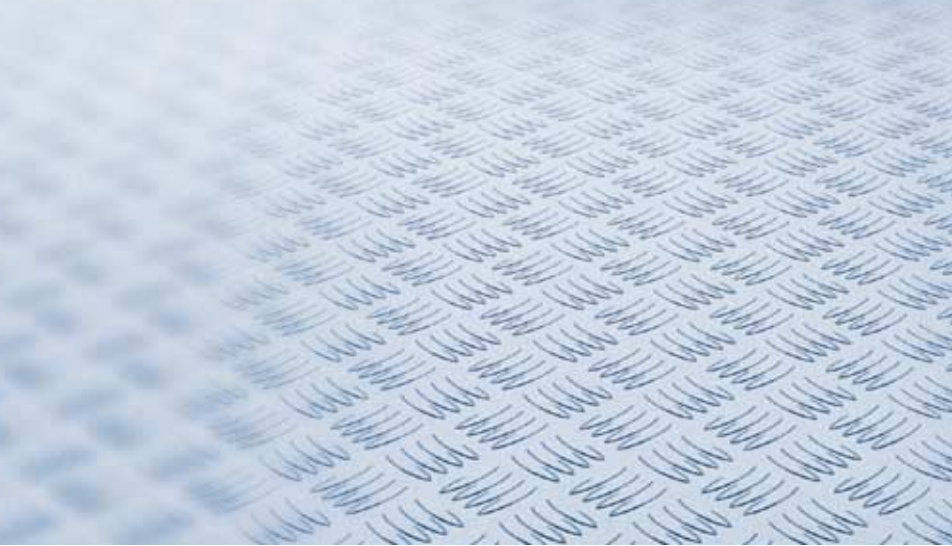


ace europe



## Exporting to the US

*Does your insurer understand your business?*



## Unless you know the facts you cannot make the right decisions

**Exporters are faced with differing potential liabilities in almost every territory to which their products may be sent. ACE understands these liabilities, particularly with regard to the US. When preparing any product for export it is essential to ask the question "is it safe?".**

### **I**maginary law suits

Did you know about the case of the woman who sued the manufacturer of a microwave oven after trying to dry her poodle with disastrous results, or the man who sued the manufacturer of a lawnmower when he lost his fingers trying to lift the machine to cut a hedge? These did not happen. ACE is able to separate the myths from the facts.

### **S**tatistics

In the US the average award in products liability suits, not including punitive damages, has more than quadrupled since 1994, rising to \$1.8 million in 2000, according to Jury Verdict Research.

**Did you know that the probability of a claim being made against you for a defective product and the likelihood of success will depend on the six following factors?**

### **I**njury severity

As the degree of injury severity increases so does the likelihood of a claim being pursued, with attorneys more willing to take on a claim under the contingency fee system.

### **T**otal number of injuries or frequency

The number of claims made against you together with corrective action you have taken to avoid repetition will be taken into account when assessing liability, as will your complaint handling procedures and record keeping.

### **S**tate of the art

Your product may not be the safest on the market but meeting US industry standards does not absolve you of liability. Your product should be safe to the extent that it is economically and technologically feasible.

### **A**ceptable risk

Some products cannot be made completely safe due to intended usage, however, any risk must be minimised to be acceptable. This can be achieved in part by effective warning labels/instruction manuals.

### **F**orseeability

The various potential uses or misuses of a product must be considered at the design stage. If potential problems are envisaged and redesign is neither technically nor economically feasible, appropriate warning label/instruction manuals must be issued at the point of sale and/or physically attached to the product.

### **E**xperience of users

Where a user can reasonably be expected to have a greater understanding of the hazards associated with the product as opposed to an ordinary member of the public, liability may be reduced.



## Why ACE?

### **Product Liability**

The costs of defending a claim in the US are expensive, and while many of the costs are covered under your policy you could still be faced with substantial hidden costs of time and money surrounding the investigation and defence of a claim. It therefore makes sense to deal with an insurer which has the experience and resource to help ease the process, thereby minimising the short and long term costs to your business.

As an exporter or potential exporter to the US, you need to ask yourself these questions:

- Have you researched the market?
- Have you carried out appropriate safety risk assessments?
- Does your product conform to standards and do you know what these standards are?
- If warning labels are required, do they conform with ANSIZ535.4?

### **Does your insurer have experience in the US market?**

ACE is a leading market for US export liability. We have developed considerable experience in the US environment and understand that this market is not a level playing field for products coming in from other countries to that marketplace. ACE is capable of viewing products exported there in a pragmatic manner and has commonsense standards in helping insure companies who are exporting products into what is a very litigious market.

### **Can your insurer provide cover for goods in transit to the US?**

ACE can provide Marine insurance cover for goods from leaving the factory to arrival at the customers, with loading and unloading

risks included. This cover is available to exporters who ship their products by sea, air, road or rail. If required, ACE can provide electronic certificates of insurance and local claims handling in the US. In addition risk management advice is also available for preparing and packing of goods, modes of transport and anti-theft measures.

### **Does your insurer also look after the exporter?**

ACE is a leading provider of personal accident and business travel insurance to cover costs such as medical expenses, emergency repatriation or costs for sending a replacement colleague, loss of personal belongings, money or business equipment, cancellation curtailment and rearrangement cover.

### **Does the insurer have the experience and resource to handle a US claim should it occur?**

ACE accepts the fact that exporters to the US will have claims made against them and has the resources there to manage a claim when it happens. We know the US legal environment varies from state to state and will not settle a claim prematurely out of fear of the US system, with the potential for increasing future pricing, loss of market share through bad publicity and the setting of the precedent, increasing potential for future losses.

### **Does your insurer have a percentage limit on turnover for US products?**

ACE does not have this limit.

In addition to the services mentioned above, ACE can provide a comprehensive range of other covers such as Directors & Officers and Pension Trustee liability.



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