Entering the US Market

What international businesses need to know about insurance before they export or incorporate in the US.

Insurance Guide

HKS INSURANCE BROKERS

Considerations for businesses entering the US

Every business enters the US differently - it’s not one-size-fits-all

Some sell 100% online with no US entity, others export foreign-made goods, and others distribute products manufactured in China, Vietnam, or elsewhere under their own brand. Some register a US company, others operate without one; some have people or premises on the ground, others don't. Each of these paths carries a different risk profile, and the right insurance strategy depends on which one applies to you.

Key considerations:

- **US Insurance is different -** the US product coverage and policy structure is different to other countries. Additionally, 50 different US states add further complexity
- **Understanding the US litigation environment carries higher risk** — no loser-pays rule, large jury awards, strict product liability. The wrong cover — or no insurance — can quickly become a major financial issue
- **Your policy will likely exclude the US** — check territorial scope before you commence business
- **US assets or employees** will require local US cover e.g., Property, Auto & Workers' Comp
- **Exporters are often treated as the manufacturer under US law** — even without local manufacturing
- **A US subsidiary needs its own US-admitted policies** — distributors e.g., 3PL, won’t pick up the liability for your business
- **US contracts** e.g., Amazon, Walmart, will require specific insurance terms (Additional Insured, Primary & Non-Contributory) — ensure you confirm this
- **Don’t rush insurance** - Engage a US-licensed insurance agent early. Good lead time is critical as US insurers will require ample lead time to ask underwriting questions.
- **Get the coverage right** the first time, as gaps are cheaper to fix before entry than after a claim

Entering the US Market:

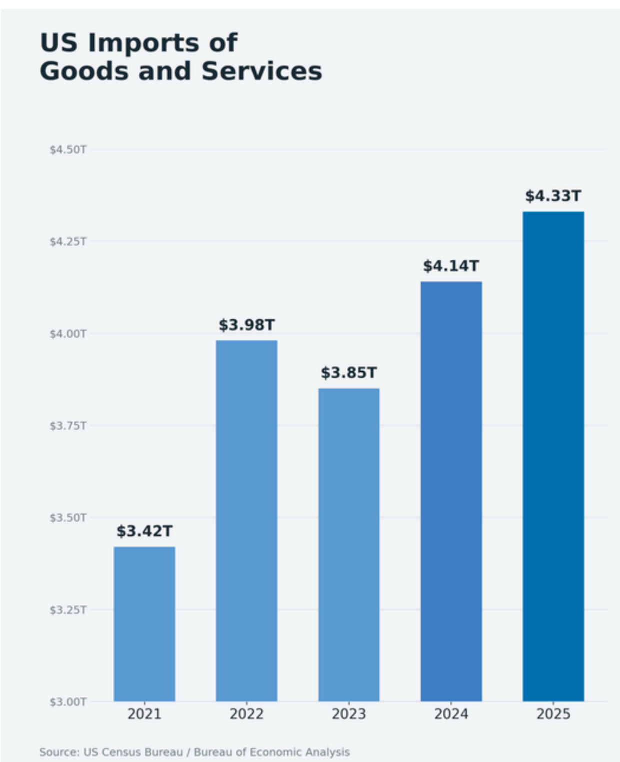
What International Businesses Need to Know

For an international business, the United States is often the most attractive market in the world — and one of the most misunderstood from a risk perspective. Companies that plan carefully for tax, entity structure, and logistics frequently treat insurance as an afterthought, assuming their home-country policy will simply ‘extend’ to cover US operations. It usually won't - and the gap can be expensive.

Whether a company is exporting goods into the US for the first time or setting up a US subsidiary, the insurance landscape looks very different from what most foreign businesses are used to. Below are the areas that deserve attention before the first shipment leaves the dock or the first US employee is hired.

The US Litigation Environment

As international businesses expand into the United States—whether through e-commerce marketplaces, distributors, retailers, or direct operations—they enter a legal and regulatory environment that differs significantly from many other jurisdictions. The US litigation environment presents unique challenges, including the absence of a broad ‘loser pays’ rule, potential for significant jury awards, strict product liability principles, and class action procedures. As a result, a single defective product, employment dispute, or regulatory issue can escalate into a significant company-wide exposure.



When Worldwide Coverage - Excludes the US

Many international liability policies exclude US and Canadian exposure or carry inadequate sub-limits or coverage i.e., excludes vendor endorsements.

Additionally, assets owned in the US, (buildings, contents, stock & vehicles) or hiring US employees, require local US Property, Auto & Workers Compensation insurance coverage.

Even where foreign policies include a US extension, differences in territorial scope, applicable jurisdiction, and local regulatory requirements can create coverage issues at the time of a claim.

Confirming whether existing coverage extends to the US & is adequate — ***before the first shipment or contract*** — is one of the simplest checks an international business can make.

Core Coverages to Evaluate

General Liability, Product Liability, Workers' Compensation, Employment Practices Liability (EPLI), Directors & Officers, Cyber Protection, Umbrella/Excess Liability, Marine Cargo, and Property & Business Interruption each play a different role.

For exporters, **Product Liability and Marine Cargo** are often the first gaps; once a US entity or employees exist, **Workers' Comp** and **EPLI** become mandatory considerations.

Entity Structure Affects Insurance Strategy

A US subsidiary is a separate legal entity that generally needs its own US-admitted policies. Selling through a distributor does not eliminate manufacturer liability exposure — product claims often name every party in the supply chain, including the foreign manufacturer.

Companies without a US legal entity or physical presence should also understand the various implications in obtaining insurance for US exposures.

Contractual Risk Transfer & Certificates of Insurance

US commercial transactions frequently include detailed insurance and indemnification requirements. International businesses unfamiliar with these practices may face challenges completing vendor agreements or may later discover that their insurance coverage does not fully align with their contractual obligations.

Engaging a US-based insurance agent before signing contracts can help identify requirements, negotiate appropriate terms, and avoid coverage gaps.

Marketplace & Vendor Rules

For many international businesses, the first US contract is a marketplace seller agreement. E-Commerce Market Places for example may require sellers to carry $1M/$2M commercial general liability limits, naming them & Affiliates and Assignees as additional insured.

For businesses exporting into the US, even if they do not physically manufacture the products, they are often treated as a manufacturer under US product liability law & possibly held liable for defects in design, manufacture, warnings, labeling, or instructions, particularly if they sell under their own brand.

As a result, US retailers, distributors and importers commonly require a Commercial General Liability (CGL) policy with specific ISO endorsements; i.e., Additional insured; Primary & Non-Contributory; Waiver of Subrogation, Contractual Liability etc

Amazon & Walmart for example, will have different conditions within their contracts of distribution.

Practical Steps

Engage a US-licensed insurance Agent early to assess coverage needs.

Early insurance planning is essential when entering the US market. International businesses should review insurance coverage, contractual requirements, and policy limits before entering the US market.

A US-licensed Agent can help identify product liability, contractual, and coverage risks before they become costly issues.

In addition to insurance advice, we recommend businesses engage specialist US market-entry advisers to assist with entity setup, tax, compliance, legal, operations, and commercial expansion.

Disclaimer: This article is intended as general commentary and does not constitute insurance, legal, or tax advice. Businesses evaluating US market entry should consult with licensed insurance, legal, and tax professionals regarding their specific circumstances.

HKS INSURANCE BROKERS

Insurance Solutions for international Businesses entering the U.S

Connecting Markets, Protecting Businesses

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We help businesses find the right Property & Casualty insurance solutions in the U.S.. Whether operating locally or expanding globally, our cross-border expertise connects both insurance markets seamlessly.

With placement capabilities in all 50 U.S. states, HKS are a trusted specialists in helping businesses confidently navigate complex cross-border regulations & unlock new opportunities.

Why Choose HKS?

- **Trusted Cross-Border Expertise**: Australian owned and operated, with offices in the U.S. and Australia, we deliver seamless multinational expertise.
- **Complex Risk & Compliance**: Strategies to manage cross-border legal and regulatory requirements.
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- **Partner Networks:** As a member of ISU Steadfast we have over 100 Insurance Carrier appointments, with placement capability within all 50 US states.

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Have questions or need a quote? We're here to help you find the best insurance solution.

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