

**The Export Trade Certificate of Review program empowers U.S. firms to join together to cut export costs and develop new export business at an accelerated pace.**

Joint exporting allows exporters to:

- Present a full line of complementary products
- Respond to and win large orders
- Negotiate for favorable export service rates
- Use leverage to gain improved export financing and insurance
- Share export costs (such as market research, transportation, insurance, overseas warehousing, and after-sales services)
- Share the costs of overseas representation.

A Certificate of Review provides antitrust protection to companies that join together in exporting. Firms with certificates can engage in joint export activities such as:

- Setting export prices
- Consolidating export shipments
- Allocating customers or markets
- Sharing market information
- Sharing product information
- Bidding on large or complex contracts
- Operating facilities in export markets.

The Certificate of Review provides immunity from federal and state government antitrust actions, both civil and criminal. The certificate also creates major disincentives to private suits by:

- Providing a presumption of legality
- Reducing maximum liability from treble to single damages
- Allowing successful defendants to recover court costs, including attorneys' fees.

Additional considerations:

- You don't have to be an "export trading company" to apply for a Certificate of Review.
- Any U.S. firm or individual, or any group or association, can apply.
- The application process is simple and there is no application fee.
- While only export activities can be protected by a certificate, your business activities need not be limited to exporting.

The International Trade Administration (ITA) has as its mission the creation of economic opportunity for U.S. workers and firms by promoting international trade, opening foreign markets, ensuring compliance with trade laws and agreements, and supporting U.S. commercial interests at home and abroad. To learn more about the ITA, write to: International Trade Administration, Office of Public Affairs, U.S. Department of Commerce, Washington, DC 20230, or visit the ITA's Internet site at [www.ita.doc.gov](http://www.ita.doc.gov).

## The Export Trade Certificate of Review Program

### The Competitive Edge for U.S. Exporters

**A**s competition from foreign suppliers continues to intensify, U.S. firms must find effective ways to become more competitive in the global marketplace.

The Export Trade Certificate of Review program offers U.S. firms a way to work together and gain a competitive edge in selling U.S. goods and services around the world. The program is authorized by Congress under the Export Trading Company Act of 1982.

The Certificate of Review provides exporters with antitrust pre-clearance intended to encourage teamwork among firms so that they can achieve economies of scale, share export costs and risks, and export profitably. Any U.S. resident, firm, or group of firms—not just an export trading company—may apply for a certificate.

The Office of Export Trading Company Affairs (OETCA), within the U.S. Department of Commerce, offers free confidential counseling and processes applications for antitrust protection under the Export Trade Certificate of Review program.

This flier summarizes the benefits available to exporters who obtain a Certificate of Review. Following the summary is a question-and-answer section with more details about the program.



**U.S. DEPARTMENT OF COMMERCE**  
**International Trade Administration**  
**Office of Export Trading Company Affairs**

## Frequently Asked Questions About the Export Trade Certificate of Review Program

### What is a Certificate of Review?

A Certificate of Review is a legal document issued by the U.S. Department of Commerce, with the concurrence of the Department of Justice, that provides antitrust protection for the export activities specified in the certificate. It is available to any U.S. exporter provided that the proposed export activities sought to be certified will not result in a substantial lessening of competition within the United States.

### What is the antitrust protection provided by a Certificate of Review?

For specified export activities, a Certificate of Review provides immunity from federal and state antitrust suits. In private antitrust actions it shortens the statute of limitations covering the certificate holder's conduct, alters the burden of proof to the advantage of the certificate holder, provides for recovery of legal expenses in cases where the certificate holder prevails, and reduces liability from treble to single damages.

### Why is this antitrust protection important?

This protection allows U.S. exporters to work together without fear of antitrust liability. Such a cooperative effort means greater profits because two or more exporters can lower their costs by sharing export market information, negotiating high-volume freight rate discounts, operating joint sales and warehouse facilities, and, generally, engaging in other joint export activities that will result in economies of scale and minimize individual risk.

### Who can apply for a Certificate of Review?

Any individual who is a U.S. resident; partnerships or corporations formed under U.S. laws; and state and local government entities. Associations or combinations among these entities may also apply. Many trade associations have taken advantage of the program as a way of providing antitrust protection for their member firms.

### How do you apply for a Certificate of Review?

There is a standard application form available on-line at [www.ita.doc.gov/oetca](http://www.ita.doc.gov/oetca) or from the Office of Export Trading Company Affairs (OETCA), U.S. Department of Commerce, Washington, DC 20230, telephone (202) 482-5131.

### How much does a Certificate of Review cost?

There is no fee of any kind. OETCA is available to provide free counseling to applicants and to assist in preparation of the application.

### How long does it take to get a Certificate of Review?

The Commerce Department is required to issue the certificate or to deny the application within 90 days, unless the review process warrants further research.

### What kinds of organizations have obtained Certificates of Review?

The main categories of certificate holders are: trade associations and their members in various manufacturing and service industries; associations and cooperatives representing producers of agricultural products; trade intermediaries, such as export trading companies and export management companies; and affiliates of states, counties, and port authorities.

### Can foreign firms participate in a Certificate of Review?

Both U.S. and foreign entities involved in exporting or facilitating exports from the United States can be protected by a Certificate of Review.

### Can banks participate in the Export Trade Certificate of Review program?

Yes. Banks and bank holding companies can apply for Certificates of Review and can be members of a group operating under the protection of a certificate.

### What about the limitation on bank holding companies maintaining equity positions in export trading companies?

Regulations on bank holding companies that wish to take equity in export trading companies are distinct from the eligibility requirements of the Export Trade Certificate of Review program.

## RESOURCES

### Export Trading Company Guidebook

This guidebook can help you consider the various ways to organize for exporting as encouraged by the ETC Act. It will also facilitate your review of the ETC Act and serve as a planning tool for your business by showing you what it takes to export profitably and how to start doing it.

The *Export Trading Company Guidebook* is available for purchase from the U.S. Government Printing Office (GPO) toll free at (866) 512-1800 or at the 23 GPO bookstores located throughout the country. (Locations are listed on the Internet at [www.bookstore.gpo.gov/index.html](http://www.bookstore.gpo.gov/index.html).)

Price: \$19.00; Order number: 003-009-00523-0

### MyExports™

MyExports.com™ is an interactive on-line resource that gives you a quick and easy way to locate prospective U.S. trading partners, and put your products and services in front of a worldwide audience.

Price: Basic registration and access are free.

Web site: [www.myexports.com](http://www.myexports.com)

### Export America

*Export America* is the official magazine of the International Trade Administration in the U.S. Department of Commerce. Each month its articles offer practical export advice and serve as a valuable resource for expanding (or new-to-market) exporters. Subscriptions are available on-line at <http://exportamerica.doc.gov>, or contact the Government Printing Office toll free at (866) 512-1800.

Price: \$55.00 per year; Order number: 703-092-00000-4

### Further Information

For additional information, or to obtain a Certificate of Review application form, contact the Office of Export Trading Company Affairs, International Trade Administration, Washington, DC 20230; telephone (202) 482-5131. Or visit the office's Web site at [www.ita.doc.gov/oetca](http://www.ita.doc.gov/oetca).