



Professional Association of Exporters and Importers

“Leaders and Partners in Worldwide Regulatory Compliance”

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Final Regulation on the China Catch All Rule, Validated End User (VEU)

By Tansie Iwafuchi, Export Manager,
National Semiconductor

After a late night of reading the eighty-one pages that were posted to the BIS website June 19, 2007, I have come up with a final VEU regulation primer. Please note the regulations will be placed into effect within thirty days of the official publication. This 'primer' is not legal advice and PAEI and I assume no responsibility if you use it as such. You can read the entire regulation in it's entirety from the BIS website at: <http://www.bis.doc.gov/usChinaExportRule.htm>.

BIS will remove individual license requirements for authorized customers in China under a “Validated End User” program. Commodities, software, and technology are eligible items under authorization VEU.

- US companies must nominate customers on a case-by-case basis to the US government to allow the waiver of export licenses under the “Validated End User” program.
- The VEU application must state which ECCN’s will be exported to the authorized customer, and for what purpose.
- Items controlled for missile technology or

crime control reasons will not be allowed to be shipped under a VEU.

- Validated end-users will be those entities that meet a number of criteria, including a demonstrated record of engaging only in civil end-use activities.
- Items transferred under the VEU may not

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**P.O. Box 612743
San Jose, CA 95161-2743
Tel: (408) 532-PAEI
Fax: (408) 274-7611
<http://www.paei.org/>**

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be for a military use, end use, or production of military items

- Companies using the VEU's will have to sign an end user agreement
- Items transferred under a VEU will not require a MOFCOM End-User Statement for imports regardless of dollar value.
- Your company and your customers and distributors will be subject to strict audits of items exported as it relates to the VEU authorization and related VEU documentation.
- Exporters and re-exporters who make use of authorization VEU are required to submit annual reports to BIS. These reports must include, for each validated end-user to whom the exporter or re-exporter exported or re-exported eligible items:
 - (A) The name and address of each validated end-user to whom eligible items were exported or re-exported;
 - (B) The eligible destination to which the items were exported or re-exported;
 - (C) The quantity of such items;
 - (D) The value of such items; and
 - (E) The ECCN(s) of such items.

BIS has added notes to specific ECCN's on the Commerce Control List which will require:

- An export license if shipment is destined for a military end user or for military end-use
- The ECCN's which that will have this additional restriction placed on them may

be found in the official China regulation; you will want to see which products your company may be exporting.

End-User Statements (EUS), issued by the PRC Ministry of Commerce (MOFCOM), must be obtained for:

- Transactions that both require a license to the PRC for any reason and (for most exports) exceed a total value of \$50,000.
- A transaction requiring an export license that is valued under \$50,000.00 will not require a MOFCOM, unless the item is classified under ECCN 6A003 (cameras) and exports to the PRC of computers subject to section 748.10(b)(3).
- BIS reserves the right to ask US Exporters to obtain an EUS at any time, regardless of VEU status, the ECCN of the item, or the value of the shipment.

We have included the link to the [Federal Register](#) which is posted on the Bureau of Industry and Security's web page, so that you can read the complete Federal Register notice.

PAEI Members Share Your Insights!

The P.A.E.I. Newsletter is a publication that is written by its many members. If you have an article you have written, or have any web site that you would like to share with your fellow PAEI members in the next newsletter, please contact:

Karen Hebert at khebertdms@aol.com

Jo Allyn Scott Retires from the Department of Commerce, San Jose Office

By Jo-Anne Daniels, PAEI President and Director



The retirement of Ms. Jo Allyn Scott from the San Jose Department of Commerce, Bureau of Industry and Security was acknowledged at the recent BIS May 24 & 25th Seminar as she was presented with a lovely bouquet of flowers and best wishes from PAEI. Jo Allyn Scott has been an honorary PAEI member since 1992.

Jo Allyn has come along way in her 31 year career at the Department of Commerce. She began her career in Washington D.C. in 1976 and she ended her career serving the export community in San Jose.

This summer Jo Allyn will breathe the fresh air while she enjoys mountain hiking, and tackling her long list of books to read while she enjoys the eastern slopes of the Sangre de Cristo Mountains in the heart of the Cucharas River Valley in Colorado. The town is surrounded by the San Isabel National Forest among resplendent trees and mountains.

Jo Allyn was an exemplary professional, extremely knowledgeable in her field, and an excellent resource to the trade. I am honored to have worked with her. We all will miss Jo Allyn and wish her well on her travels and the new adventures that await her.



Upcoming P.A.E.I./BIS Events Mark Your Calendars!

- **September 26 - 27, 2007**
“Complying with U.S. Export Controls”

PAEI is always interested in offering the education that our members need. If you want to suggest a topic for a future course, please contact one of the PAEI Board Members.

Watch the PAEI Web site for these and other events, <http://www.paei.org>

Export Administration Regulations

Category 3 - Electronics Seminar

By Tansie Iwafuchi, PAEI Director

On April 19, 2007, the Professional Association of Exporters and Importers hosted a program on classifying category 3 products and technology. This seminar was focused specifically on the classification of items in the Export Administration Regulations Category 3. Our speakers discussed tips, tricks, and even strange commodity classification lessons they learned. One speaker told an amusing story of how the company had placed so many requests for 3A001.a.5.a.4 boards that the government actually gave her a commodity classification of 4A003 so she would stop filing for licenses!

Speakers included Ms. Julie La Cross, Manager of Corporate Trade Compliance, National Semiconductor, Ms. Tansie L. Iwafuchi, Director, PAEI and Export Manager, National Semiconductor, Mr. Daniel M. Fisher-Owens, Attorney at Law, Berliner, Corcoran & Rowe, L.L.P., Mr. Roszel C. Thomsen II-Partner, Thomsen and Burke, L.L.P., Ms. Jo-Anne Daniels, President, Trade Resources and Associates, Ms. Misty Rutter, Export Consultant, Rutter and Associates, and Mr. Steve Brotherton, Attorney, Fragomen, Del Rey, Bernsen & Loewy, LLP. There were about seventy-five people in attendance.



April 25th presentation regarding Quick Response Audits

By: **Dan Kromat, PAEI - Director**

On April 25th, 2007, PAEI hosted a half-day seminar regarding Quick Response Audits and Focused Assessments. This event was very informational and we had a good turn out.

Betty Williams from Customs was the first speaker and delivered a nice presentation covering the scope of Quick Response Audits, how they will be initiated, and how they differ from the Focused Assessment Audits. Her presentation is attached for your review, http://www.paei.org/quick_response_audit_4_25_07.pdf

Many of the earlier Quick Response Audits were within the wearing apparel industry, but this type audit will affect importers of all commodities and Customs Broker.

George R. Tuttle III gave a great legal overview of the new Quick Response Audits, providing insights and asking Betty some good questions regarding this fairly new audit program.

Drawback

By: **Neill F. Stroth, PAEI member**

President of N.F. Stroth and Associates

The 2004 Miscellaneous Trade Bill contained a number of changes in the drawback statute including confirmation that HMF was recoverable, expanded the packaging material rule and thankfully provided for a one year time frame for the liquidation of drawback entries. It seems that one change has not come up

on many company's radar screen and you should be aware of it. The change is in rejected merchandise section, 1313(c), a rather sleepy section of the law.

This new section allows merchandise "ultimately sold at retail by the importer, or other person who received the merchandise from the importer . . ., *for any reason* returned to and accepted by the importer . . ." to be eligible for drawback. In the past the burden was on the claimant to demonstrate why the merchandise was returned and should be eligible for drawback. Now, the receipt of the returned merchandise is sufficient.

The second part of the change has to do with matching the proper import entry to the returned merchandise. The claimant may match the returned merchandise to any import: 1) that was imported within one year of the date of action on the returned merchandise, 2) that is matched to the returned items by eight digit HTS classification and a specific product number (such as SKU, part number or product code), 3) the date of action (exportation or destruction) is under supervision of the Customs Service.

A direct tie of the export to the import, required in other parts of the section, is not required in these cases.

The effect is a modified form of substitution for merchandise returned to an importer. It has found extensive use with consumer electronics and made the drawback process much easier for footwear and wearing apparel importers. It should apply to many in the electrical and electronics companies, but the activity seems to be light with this type of firms. Does it apply to your company? Can you make use of it?

C-TPAT Update Seminar

By Jo-Anne Daniels, PAEI President
and Director

PAEI was very fortunate to receive a visit from Bernice Conley, Supply Chain Security Specialist from Customs & Border Protection, C-TPAT Office in Long Beach to return to San Jose and speak to PAEI on June 11th about the latest C-TPAT certification and validations news. We also had a fabulous industry speaker, Loree Stevens, Symmetricom Corporate Import/Export Manager who shared her C-TPAT experiences and lessons learned.

Ms. Conley is a national C-TPAT trainer and explained the Supply Chain Security Specialist's role starting with conducting reviews of C-TPAT applicant's security profile and application to conducting the Validation. They receive training at the national and local level twice a year. She also gave some highlights of the SAFE Port Act that was signed by the President October 13, 2006 that codified the C-TPAT program which now includes 3 Tier levels,

revalidation and third party validations. She emphasized that the Validation is **not an audit** and that importers and Supply Chain Specialists are partners. She welcomes your questions and can be reached at 562-366-3279.

Ms. Stevens spoke from her personal experience about starting a C-TPAT program, forming a team, and insuring there is a senior manager champion in your team. She gave us a history of her three month certification process, post certification and pre-validation. She shared some of her surprises and some unexpected benefits of C-TPAT certification, and knowledge gained. The most important lessons learned was that managing a C-TPAT program was a full time job, it was helpful to hire a consultant, there are new rules each year and it is recommended to meet with your C-TPAT team at least once a quarter or sooner.

Both speakers gave informative presentations and attendees received a great deal of valuable knowledge to help importers and brokers become C-TPAT certified and validated.



Advanced Crypto & ITAR Seminar

By Jo-Anne Daniels, PAEI President & Director



June 21st 2007 PAEI presented the "Advanced Crypto and ITAR Seminar." The encryption program was well received last year and we rescheduled it this year. We also had the good fortune of having two highly knowledgeable and eminently qualified encryption professionals and talented speakers present at the seminar.

We welcomed back Dan Fisher-Owens, attorney from Berliner, Corcoran & Rowe L.L.P who gave an overview of software classification and commodity jurisdiction. He provided some recent enforcement cases related to exporters making their own CJ determinations which he entitled "To CJ or Not to CJ" and the effects of jurisdiction decision as well as ITAR basics for software. He spoke about EAR software controls giving detailed examples and discussed EAR and ITAR Deemed Exports.

Our next speaker was Winnie Luk, PhD, Sun Microsystems' Senior Export Control Manager. Her presentation was called "One day in the life..." which she says sometimes extends until well into the night.. Winnie spoke about the challenges she faces with encryption classification or "cryptanalysis" and Sun's processes. She explained how she works with other companies regarding 3rd party classification and spoke about foreign filings and how she overcomes obstacles.

After both presentations concluded, we had a panel discussion and the audience had the opportunity to ask the speakers any questions regarding the subject. We received much positive feedback and know that this is a subject that is very rich and complex and plan to schedule many more encryption seminars.

WATCH US GROW!

March 2007

New

Sharon Jones	Solectron
Brandi Altamirano	Expeditors International
Kimberly Hammett	Solectron
Veronica Garcia	Pelco

Renew

Cindy Shull	Mkdenial.com
Karon Giovannoni	Matheson-Trigas, Inc
Mark Yee	Applera Corp.
Katya Winder	Applera Corp.
MaryAnn Omerod	VisionSafe Corp.

April 2007

New

Mona Sasamoto	Lam Research
Ray Hirata	Lam Research
Desiree Samson	EMD Chemicals, Inc.
Tina M. Luther	Alliant Techsystems, Inc.
Kristine McMahon	Alliant Techsystems, Inc.
Dana Bounds	Payless Shoesource
Karen Chavarria	Payless Shoesource
Fatima Guadamuz-Cabral	Network Appliance, Inc.
Juneann McDonald	Network Appliance, Inc.
Alice Tsai	Avago Technologies
Jerry Owensby	Fragomen, Del Rey, Bernsen & Loewy
Richard Pettler	Teledyne Microwave
Bill Jaynes	Endwave Corporation
Jim Crossen	Endwave Corporation
Mary Ann Phillips	Cymer, Inc.
Rita Spencer-Rout	Cymer, Inc.
Karen Azlin	

Renew

Laura Lyons	Palm, Inc.
Gitty Stone	Solectron

**WATCH US GROW!**

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April 2007**Renew Cont'd**

Tania Gorie	Solectron
John Kim	Perkin Elmer Optoelectronics
Toni Paytas	Thomsen & Burke LLP
Steven Kott	Advanced Micro Devices
Christine Brinkerhoff	Advanced Micro Devices
Loree Stevens	Symmetricom, Inc.
Diana Rowles	Symmetricom, Inc.
Jim Smaltz	Ditech Networks
Stacy Felix	Ditech Networks
Matthew Goldstein	Snell & Wilmer LLP

May 2007**New**

Leon Zhang	Logitech, Inc.
Steven W. Baker	Law Offices of Steven W. Baker
Delia C. Padilla	JDSU
Andrew R. Pollack	JDSU
William Cai	Aero Logistics Int'l.

Renew

Char Henderson	Seki Technotron USA
Sheri Fumo	Seki Technotron USA
DJ Garner	Logitech, Inc.
Kory Minners	Dionex Corp.
Hans Leumers	Sun Microsystems, Inc.
Ann Levin	Sun Microsystems, Inc.
Sophia Chan	Zoran Corporation
Lee Delos Reyes	Zoran Corporation
Rafi M. Sekandar	OMRON Scientific Technologies, Inc.
Russell Y. Thomas	OMRON Scientific Technologies, Inc.
Martina de la Torre	Symantec Corporation

June 2007**New**

Dawn Cranfield	Tyco Valves & Controls
Ngoc Nguyen	TradeBeam, Inc.
Barb Seib	Dole Packaged Foods
Robert Bernard	Attorney
Yvonne Angelo	JSI Shipping Corp.
Bobby Solis	JSI Shipping Corp.
Patrick Pettipiece	Pitney Bowes Management Services
Hazel Pangayan	Pitney Bowes Management Services

Renew

Prentice Wells	TradeBeam, Inc.
Tom Mumby	IDT
Pat Toich	IDT
June H. Lanning	EMD Chemicals, Inc.
Ellen Pierce	Presidio STX, LLC
Delilah DeMayo	Presidio STX, LLC
Rajat P. Kuver	Advanced Immigration Solutions, Inc.
John Brown	EXAR Corporation
Gary Ramos	EXAR Corporation
Michael Schwartzberg	KLA-Tencor
Manny Litonjua	KLA-Tencor
John F. McKenzie	Baker & McKenzie

PAEI Members Get Involved!

PAEI is a member-driven organization, run by many volunteers. There are numerous projects currently in the works, and lots of new Committees forming. Announcements will be sent out periodically listing the current positions that need to be filled. If you find a position or project you are interested in, we would love to have your help.

Getting involved in a Volunteer position with PAEI is a great way to meet other professionals in the international trade fields, support the organization, and be rewarded for your efforts.



P.A.E.I. Membership Information

The Professional Association of Exporters and Importers is an organization of professionals involved in import/export activities. Objectives of the association include promoting and fostering the role of the import/export professional, providing on-going education relative to regulatory issues, exchanging information and enhancing industry's participation in import/export control issues and policies.

P.A.E. I. sponsors quarterly luncheon meetings with featured guest speakers, a bimonthly newsletter, networking and job placement opportunities.

P.A.E.I. membership represents both large and small companies in the high-technology community. Membership is open to all persons interested in personal and professional growth in the international arena. Two types of memberships are available and are valid for one year from date of payment. For more information call the PAEI Message Center at telephone (800) 930-PAEI.

Complete this application and return it along with your check. Make checks payable to: Professional Association of Exporters & Importers, P.O. Box 612743, San Jose, CA 95161-2743. PAEI's TAX ID NO: 680117035. You may also pay online for your membership at the PAEI web site <http://www.paei.org/>.

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