



PROFESSIONAL ASSOCIATION OF EXPORTERS & IMPORTERS

PAEI President

By Gieselle Perez, PAEI Director

Chuck Stohr has served as PAEI President since January of 2000. Prior to his appointment as President he served as the VP of Administration. Chuck has now completed his term as President and will be retiring to Arizona. The board of Directors would like to thank Chuck Stohr for all his hard work and dedication these past four years. We have benefited greatly from his direction and leadership. We would like to wish him good luck on his future endeavors.

Chuck you will be missed!

The Board of Directors has since appointed Martina de la Torre as the new President of PAEI. Martina has been a dedicated member, former Director, Secretary and VP of Administration.

Martina was first elected to a Director position in 1994 and again in 1997. She graduated from CSU, Chico with a BA in International Relations and from the Monterey Institute of International Studies with an MA in International Policy Studies and Translation. She was the Export Compliance Manager at ATMEL Corporation from 1989-1998. She worked for two years at 3Com Corporation as an Export Compliance Programs Manager, one year at mycustoms.com (now Open Harbor) and is currently employed by SGI as a Project Manager in the Export Compliance Department.

We are pleased that Martina has accepted this appointment to the office of President. We look forward to an outstanding year under her leadership and guidance.

New PAEI Board for 2003– 2005

By Martina de la Torre
VP of Administration 2000-2002

On behalf of PAEI Directors, Officers and Members we would like to thank Lydia Turner (Bostillo), Fatima Guadamuz-Cabral, Dan Kromat, Gieselle Perez and Joanne Daniels for participating in the recent elections. We had an excellent vote response this time.

We would like to congratulate and officially introduce the new Directors:

**Dan Kromat
Gieselle Perez
Joanne Daniels**

The new Directors were sworn in on Thursday January 23, 2003 at the January Board of Director's Meeting. Thank you all for your participation and continued support of PAEI!

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P.A.E.I. NEWSLETTER

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0431.*

Board of Directors; Dan Kromat, Jo-Anne Daniels,
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the Board - Dan Kromat; VP Admin. - Open; Secretary
- Gieselle Perez; Treasurer - J. Dixon Reilley
Committee Chairs; Education, Marc Torres; Market-
ing, Tansie Iwafuchi; Membership, open; Programs,
Martina de la Torre
Editor; Fatima Guadamuz-Cabral
Publisher; Karen Hebert, Direct Mail Services

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toms representative.*

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2003 P.A.E.I. Board of Directors/Officers

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martinelatorre@yahoo.com

Vice President of Administration
Open

Treasurer

J. Dixon Reilley
Reilley and Associates
dreilley@quixnet.net

Director & Secretary

Gieselle Perez
Atmel Corp.
gperez@atmel.com

Director

Luke Alexander
Hitachi Data Systems
luke.alexander@hds.com

Director

Jo-Anne Daniels
Solectron
joannedaniels@ca.slr.com

Chairman of the Board & Director

Dan Kromat
KSI Corp.
dan.kromat@ksicorp.com

Vice President for Development & Director

Cindy Shull
MK Technology
cindy@ibek.com

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HOW TO KEEP YOUR OCEAN SHIPMENT INFORMATION CONFIDENTIAL

By Dan Kromat, PAEI Director

(Reprinted with permission from the KSI
January 2003, Volume 14, Issue 1 Newsletter)

Once again, it is time to advise our readers that unless importers and consignees file a request for confidential treatment of certain data elements, all of the information appearing on the cargo declaration (CF 1302) of the inward vessel manifest for the importer's or consignee's shipments may be published by certain parties, and all of the manifest data acquired from Customs' (AMS) Automated Manifest System will be made available to the public on magnetic tape.

Under the new Customs 24-Hour Rule, AMS will soon contain even more confidential information than in the past. This information can include your foreign shippers names and addresses, your company name and address in the U.S., any notify party and their address, a piece count, a precise cargo description, and other confidential information. Actually, this new Customs 24-Hour Rule may cause an explosion of new confidential information hitting the presses, because even NVOCCs confidential client information must now move through the AMS module.

Strange as it may seem, giving this confidential information to the public is allowed in the (CFR) Code of Federal Regulations (19 CFR 103.31(a)). Basically, the CFR allows accredited members of the press, including newspapers, trade journals, and similar publications, to examine, copy, and publish certain vessel manifest and summary statistical information on imports and exports.

Customs has stated that air manifest information remains confidential, and Customs has not yet instituted a rulemaking proceeding on this statutory change. Release of air cargo manifest information seemed to be provided for in the (ACPA) Anticounterfeiting Consumer Protection Act of 1996 (Public Law 104-153). Apparently, the Treasury Department had been working with congress to eliminate the air manifest information disclosure requirement contained in the (ACPA), which included a great deal of ambiguity. However, programs similar to the Customs 24-Hour Rule, may be in the near future for air, rail, and truck importations, and these new programs may cause Customs to release other AMS information in the same way that ocean information is currently released to certain interested parties.

The good news is that importers or consignees may submit a certification for confidential treatment for the importer or consignee name and address contained in inward ocean manifests (including identifying marks and numbers). Also, the name and address of the shippers and notify parties can be made confidential. 19 CFR 103.31 also provides that an importer or consignee (or their authorized employee, attorney, or official) may submit a certification to U.S. Customs for confidential treatment.

The certification requesting confidentiality should include the importer's or consignee's IRS number, and be submitted to the Disclosure Law Officer, Headquarters, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Basically, an importer or consignee would be requesting that certain identified shipper names and addresses, consignee names and addresses, and notify party names and addresses will be kept confidential for a two-year period. If an importer or consignee wishes to continue the confidential treatment beyond the two years initially given, they should re-file an updated

Continued on page 4

request for confidentiality sixty days prior to the expiration of the two-year period previously granted. The Customs contact is Mr. Larry Burton (202) 572-8724.

Apparently, Customs is now hearing the concerns of the import community and its transportation providers, as the Customs Service has issued a Notice of Proposed Rulemaking provides that, in addition to the importer or consignee, parties that electronically transmit vessel cargo manifest information directly to Customs 24 or more hours before cargo is laden abroad the vessel (carriers and NVOCCs) may request confidentiality with respect to the name and address of the importer or consignee, related marks and identification numbers that reveal their names and addresses, and the names and addresses of their shippers. These carriers or NVOCCs would be required to submit to Customs a letter of authorization signed by the importer or consignee with the request for confidentiality. This notice is published in the Federal Register (www.access.gpo.gov/nara), dated January 9, 2003.

(This article prepared by Dan Kromat, Manager Customs Compliance, a Licensed Broker working for KSI Corporation in South San Francisco, CA. He can be reached at dan.kromat@ksicorp.com, or 650-228-7155.)

DEPARTMENT OF HOMELAND SECURITY (DHS) AND EXPORT CONTROLS

By Tansie Iwafuchi, PAEI Marketing Chair

On September 16, 2002, former Assistant Secretary for Export Enforcement, US Department of Commerce, F. Amanda Debusk, published an article in the Journal of Commerce calling for Congress to consolidate export controls in the new Department of Homeland Security. These sentiments were echoed in reports

from the Congressional investigation agency, the General Accounting Office (GAO), which criticized the Commerce Department for not adequately controlling technical information to foreign nationals (deemed exports). Representatives Duncan Hunter (R-CA) and Curt Weldon (R-PA), chairman and vice chairman, respectively, of the Armed Services Committee have also called for dual-use export controls to be shifted to the DHS.

The 107th Congress has continued discussions on the reauthorization of the Export Administration Act (EAA). This January these discussions have also including shifting control over exports of dual-use products from the Department of Commerce (DOC) to the new Department of Homeland Security (DHS). However, discussions are ongoing, and it is not yet known whether the issue will actually be brought up during congressional-executive negotiations on the EAA.

The idea reflects concerns on the part of the House Armed Services and International Relations Committees that the DOC's emphasis on promoting exports of computers and other high-tech products has jeopardized national security by making it easier for Russia, China, and other countries of concern to obtain such goods. Last year those committees blocked the passage of an EAA reauthorization bill approved by the Senate and backed by the White House and US companies, instead proposing that much of the oversight of export controls be transferred from The DOC to the Defense Department.

(This article compiled from several Congressional Reports, the American Electronics Association and the Journal of Commerce.)

(Tansie Iwafuchi currently serves as the PAEI Marketing Chair and works for Sun Microsystems in Santa Clara)

DEMANDS FOR REDELIVERY OF IMPORTED GOODS AND LIQUIDATED DAMAGES

By George R Tuttle, III
Law Offices of George R Tuttle

Did you know that the Customs Service can order the recall or "redelivery" of merchandise weeks and sometimes months after it has been released to your company? Did you know that your company has agreed to pay Customs one, two, and even three times the value of the merchandise if it is not returned when demanded?

The Customs Service has a legal obligation to determine the admissibility of merchandise imported into the United States before it is released from Customs' custody. As a practical matter, Customs does not have the resources to timely examine all merchandise at the time of its arrival. Customs will, therefore, "conditionally" release merchandise prior to a determination that all legal requirements have been met.

If Customs subsequently determines that the goods are not admissible as a result of that examination, it will order the redelivery of the merchandise. The failure to redeliver all of the merchandise within the time allowed will result in the assessment of liquidated damages. Liquidated damages are a type of monetary penalty assessed by Customs because of a failure by an importer or its Customs broker to satisfy one or more conditions of importation, including the redelivery of merchandise.

Where It All Begins: Import Bonds

As a precondition to importing, an importer must obtain a general importation and entry bond (there are single-transaction and multi-transaction bonds available for imports), or post a cash deposit equal to the value of the merchandise. In almost all cases, an importer will choose to obtain a general importation and entry bond.

Under the terms of the bond, Customs agrees that it will release the goods for admission into the United States if the importer agrees to comply with all of the conditions specified in the general import bond. The bond acts as security for the performance of the obligations the importer has agreed to. The conditions of importation that an importer agrees to are found in Section 113.62 of the Customs Regulations, and include promises by the importer to redeliver merchandise to Customs in the event a demand is made.

The amount of liquidated damages that will be assessed for a breach of a bond condition varies according to the type of bond condition breached. In general, if the importer fails to comply with the conditions of the general import and entry bond, the importer is obligated to pay liquidated damages equal to the value of the merchandise involved in the default, unless a different amount is specified in the Customs Regulations. Different amounts are specified for non-payment of duties and fees, importation of restricted merchandise, and non-production of documents or records required for entry or admission. For instance, the amount of liquidated damages specified for the importation of restricted merchandise is three times the value of merchandise.

Limitations On Customs To

Demand Redelivery

Section 141.113(g) of the Customs Regulations provides that a demand for the return of merchandise to Customs' custody shall not be made after the liquidation of the entry has become final. By law, liquidation can take up to one year, and can, under certain circumstances, be extended for another three. 19 U.S.C. § 1504. There is a limit, however, on the amount of time Customs has to demand redelivery of merchandise. This limitation is found in Section 113.62(d) of the Customs Regulations, which

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reads: "a demand for the redelivery of merchandise can be made no later than 30 days following the date the merchandise is released from Customs Custody, or 30 days after the end of the conditional release period, whichever is later."

Section 113.62 has been interpreted to preclude Customs from enforcing a demand for redelivery that is issued more than 30 days after the date merchandise is physically released, unless a "conditional release period" is established. Customs explained in C.S.D. 90-99 that a conditional release period is the period of time an importer is given to respond to a formal request for information or production of a sample (for example, a CF 28). By regulation, a CF 28 must be issued within 30 days of the actual release of the merchandise. Once a CF 28 is issued, an importer is provided 20 days to submit the sample. If Customs does not receive the sample, or if it is found that the sample is non-compliant, Customs has 30 days from the date of receipt of the sample to issue the demand for redelivery of the merchandise. If no sample is provided, Customs must issue the demand for redelivery within 30 days of the last day to provide the sample.

The conditional release period is not the same in all instances. For that class of goods known as "restricted merchandise,"¹ the conditional release period may be longer. For textile and textile products, the conditional release period ends 180 days from the date of release. See 19 C.F.R. 141.113(b). In the case of FDA-regulated products, it can be even longer. In HQ 225807, dated December 4, 1995, Customs said that the absence of a "may proceed notice" issued by the FDA prior to the release of the merchandise by Customs was an occurrence establishing a conditional release period, and that the FDA's subsequent issuance of a Notice of Refusal of Admission established the end of the conditional release. Customs then has 30 days from the end of the conditional release period to issue the notice of redelivery. Of course, the failure to redeliver the restricted merchandise will result in the issuance of a

demand for liquidated damages equal to three times the value of the restricted goods.

What Can You Do If You Receive

A Notice Of Redelivery?

Alert importers will not be surprised to receive a notice of redelivery. Typically, a CF 28 Request for Information or Production of Sample will precede the Demand for Redelivery. Ignoring the CF 28 or not taking the opportunity to submit a serious response to the request will inevitably lead to the issuance of a demand of redelivery and possibly, a demand for payment of liquidated damages.

If a demand of redelivery is issued, importers should immediately attempt to prevent the distribution of merchandise that is subject to the notice of redelivery, or, if possible, to retrieve any merchandise that has already been distributed.

If it is determined that the demand for redelivery is unwarranted or untimely, it should be protested. 19 U.S.C. § 1514(a)(4) allows an importer to file a protest against a demand for redelivery. The protest, however, must be filed with Customs within 90 days of the date of issuance of demand for redelivery.

Protesting a notice of redelivery can achieve three goals. First, it will allow Customs to consider the merits of the importer's arguments that redelivery is inappropriate; second, it can forestall the issuance of a demand for payment of liquidated damages; and third, it can form the basis of judicial review of the importer's arguments that redelivery is inappropriate. If redelivery is inappropriate, there is no breach of the bond and no cause for issuance of a demand for liquidated damages.

George R. Tuttle, III, is an attorney with the Law Offices of George R. Tuttle in San Francisco. His practice focuses on Customs and U.S. Trade Regulation. The information in this article is general in nature and is not intended to constitute legal advice or to create an attorney-client relationship with respect to any event or occurrence, and may not be considered such. He may be reached at (415) 288-0428 or by e-mail at geo@tuttlelaw.com.

¹ See generally 19 C.F.R. §§ 12.01 through 12.105 for information on goods subject to import restrictions.

IMPORTANT NEWS!

PAEI HAS A NEW PO BOX
Please note that PAEI has a
new address:

PAEI
PO BOX 612743
San Jose, CA 95161-2743

All correspondence should be mailed to this new address starting February 2003. The old PO BOX in Santa Clara will be forwarding all PAEI mail to the new San Jose PO Box.

PRINCIPAL PARTY IN INTEREST
An Editorial

By Tansie Iwafuchi, PAEI Marketing Chair

The legal definition of the new Principal Party in Interest is complex and dangerous from an export control perspective.

For example, last week I received a call from a freight forwarder that wanted me to divulge our company's Exporter Identification Number. I asked the forwarder why they needed the EIN--- the freight we ship on our own behalf has the EIN printed on the invoice.

It turns out that the forwarder was shipping on behalf of a U.S. customer. Because we are the manufacturer of the product, the forwarder felt our company should be listed as the Principal Party in Interest---even though we were not paying for the freight and have no ultimate control over the final destination, and sold the item to be used in the U.S. We asked the forwarder to contact the party paying the freight to provide their EIN for the Shipper's Export Declaration. The forwarder agreed to do so, but instead called several other people at our company to try and get the EIN Information, definitely a red flag!

Roszel Thomsen, a leading trade attorney from the firm Thomsen and Burke LLP, website www.t-b.com had this comment, "The Commerce

Department's Bureau of Industry and Security and Bureau of Census amended the Export Administration Regulations and the Foreign Trade Statistics Regulations in July of 2000 to permit shifting of the responsibility as "exporter" from the U.S. Principal Party at Interest to the Foreign Principal Party at Interest. Unfortunately, a lot of freight forwarders do not understand that implications of these new regulations. If your freight forwarders do not understand, then either educate them, or vote with your feet!"

It will be up to company policy in some cases to determine how they feel the PPI issue and providing EIN's will be handled. If you have suggestions or comments about how your company deals with PPI and EIN disclosure issues, please e-mail me at tansie_iwafuchi@yahoo.com and we'll print the replies in a future issue.

Further information about the Foreign Trade Statistics Regulations Title 15, Code of Federal Regulations, Part 30 can be obtained on the Foreign Trade Division's Web site at :
<http://www.census.gov/oreign-trade/regulations>.

(Tansie Iwafuchi currently serves as the PAEI Marketing Chair and works for Sun Microsystems in Santa Clara)

2003 Membership Directory

It is that time of year again when we start to prepare for the new PAEI Membership Directory. We want to make sure that we have all current PAEI members information listed with correct contact information for your membership. If your membership is more than 30 days past expiration, and you wish to be included, please make sure to send in your membership dues. Information that is included in the PAEI Membership Directory is as follows:

Members Name, Title, and Company Name
Telephone Number, Fax Number and
E-mail Address.

It is very important that we have your e-mail address because many announcements are sent via e-mail only.

If you are not sure if your membership has expired, or that we have all your current information listed, please send an e-mail to:
paei_org@aol.com with the subject line reading PAEI Membership Update.

The Bureau of Industry and Security
and
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May 7 –8, 2003

Biltmore Hotel and Suites
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This two-day program is led by BIS's professional counseling staff and provides an in-depth examination of the Export Administration Regulations (EAR). The program will cover the information exporters need to know to comply with U.S. export control requirements on commercial goods. We will focus on what items and activities are subject to the EAR; steps to take to determine the export licensing requirements for your item; how to determine your export control classification number (ECCN); when you can export or re-export without applying for a license; export clearance procedures and record keeping requirements; Export Management System (EMS) concepts; and real life examples in applying this information. Presenters will conduct a number of "hands-on" exercises that will prepare you to apply the regulations to your own company's export activities. This program is well suited for those who need a comprehensive understanding of their obligations under the EAR.

Reservations will fill up fast, so don't hesitate, visit www.paei.org and register today. The cost is \$295.00 and includes a continental breakfast, lunch, refreshments, and all training material.

For further information on the details of the program, contact BIS (408) 998-7402, or (949) 660-0144 or PAEI (408) 532-PAEI (7234). Call the Biltmore Hotel and Suites at (408) 988-8411. for discounted room rates.

PAEI ANNUAL MEMBERSHIP MEETING DECEMBER 4, 2002

By Lydia Bostillo

On Wednesday, December 4, 2002, PAEI had its 15th Annual Membership Meeting at the Biltmore Hotel and Suites. Over 50 members attended, and a few were joined by their spouses.

This was the biggest turn-out in a very long time! The food was great and everyone had a good time! Raffle tickets were given to each attendee, and door prizes were given out.

The Biltmore Hotel and Suites was very generous in donating the grand prize of the evening, which was a weekend get-away for two nights and 3 days at the Biltmore Hotel and Suites for two people. The grand prize was won By Robert Neri, husband of Sheila Neri of Dimerco Corporation.

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

Future PAEI/BIS Export Regulations courses are scheduled as follows:

- Export Regulations Course
(2 day) May 7-8, 2003
- Export Regulations Course
(2 day) September 17-18, 2003

PAEI is always interested in offering the education that our members need. If you want to suggest a topic for a future course, please call Luke Alexander at 408-970-5953.

**Watch the PAEI web site for these and
other events, www.paei.org/.**



WATCH US GROW!

November 2002

New

| | |
|------------------|--------------------------|
| Mark Berkvam | Hewlett Packard, Co. |
| Maria P Magliano | Commerce One |
| Robert Quick | Senior Aerospace Ketema |
| Greg Lloyd | Precision Software, Ltd. |

Renew

| | |
|------------------|----------------------------|
| Pamela Harbell | Hitachi Semiconductor |
| Mark Yee | Hitachi Semiconductor |
| Deborah Mannia | IPC Communication Services |
| Lillian Lopez | Novellus Systems |
| Loren Sorensen | Sorensen Associates |
| Beverly Gonzales | |
| Sunny Ruan | Acer Group |
| Lydia Lien Vong | Acer Group |
| Grainne Graham | Precision Software, Ltd. |

December 2002

New

| | |
|-------------------|-------------------------------|
| Helen King | Silicon Graphics, Inc |
| Mark A. Heyl | Hopkins & Carley, A Law Corp. |
| Bob St. Clair | OSE, USA Inc. |
| John Di Girolamo | Hitachi Storage Software, Inc |
| Jean Stein | Hitachi Storage Software, Inc |
| Tina Ayala | |
| Deborah Ferry | |
| Michino Gustafson | Hitachi Data Systems Corp |

Renew

| | |
|-------------------|------------------------------|
| Nicole Malcolm | Applied Materials, Inc |
| Laura Lane | |
| Gary Sitts | Xerox Palo Alto Research Ctr |
| Marc Torres | Export Procedures Academy |
| Maria Contrestano | |
| Giancarlo Vestri | Bank of America |
| Edward J Radlo | Fenwick & West LLP |
| Hal Plimpton | Int'l Support Systems |
| Tom Williams | Legato Systems, Inc |
| Mona Peglow | Legato Systems, Inc |
| Elia Quiros | Hitachi Data Systems Corp |
| J.E. Scofield | The Boeing Co. |
| Ted Abber | The Boeing Co. |
| Susan Gleason | Fujitsu America, Inc |
| Jinny Lo | Fujitsu America, Inc |

January 2003

New

| | |
|------------------|----------------------|
| J Cameron Wessel | SAP |
| Peggy Ann Prince | Hitachi Data Systems |
| James Yu | Stratex Networks |

Renew

| | |
|------------------------|------------------------|
| Bill Volner | Allergan Sales, LLC |
| Ken A Santana | |
| Dan Kromat | KSI Corporation |
| Mike Ford | KSI Corporation |
| Sharon J. Kolstad | ATMEL Corporation |
| Gieselle Perez | ATMEL Corporation |
| Serena Lam | Coherent, Inc. |
| Nancy Valone | Coherent, Inc. |
| Dave Perez | National Semiconductor |
| Eileen Lawall | National Semiconductor |
| Michelle Scott-Horwitz | Seagate Technology |
| Mary R Breede | Seagate Technology |
| Dennis Shea | Stratex Networks |
| Kathleen Gebeau | Qualcomm Inc. |



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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 bi-monthly 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.**

Check Membership Choice:
_____ **\$50.00 Individual** _____ **\$150.00 Corporate***

Name: _____

Title: _____

Phone: _____ **Fax:** _____

E-mail: _____

Company/Corporate Name: _____

Mailing Address: _____

City, State and Zip: _____

***Corporate members please indicate second name:**

2nd Name: _____

Title: _____

Phone: _____ **Fax:** _____

E-mail: _____

How did you hear about P.A.E.I.?: _____