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**PROFESSIONAL ASSOCIATION OF EXPORTERS & IMPORTERS**

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**Importer Optimization  
with CBP**

**By Jo-Anne Daniels, PAEI Director**

April 1, PAEI sponsored The *Importer Optimization with CBP* program. The attendees responded very positively to the quality of the program and presentations and felt the information was most beneficial. PAEI was fortunate to have top presenters from industry and government to speak about Customs and Security topics.

Peter Daniels, CBP Liaison, Office of Strategic Trade and Regulatory Audit based in New York kicked off the meeting to discuss Focused Assessments (FA) and Importer Self-Assessments (ISA). Peter has 30 years experience in regulatory audit and shared some valuable insights and information about the complexities of Customs audits.

The next speaker was Tim Dugan from Maxtor Corporation who gave a case history of his company's FA. The presentation was most propitious for all attendees because they had the opportunity to learn from an experienced trade person who generously shared his company's successful FA experience with other trade people.

George Tuttle, George R. Tuttle Law Firm, followed with a legal overview of a FA and ISA. George provided the history and legal authority for CBP to audit and explained importer liabilities and rights. He also discussed considerations and benefits of the ISA program.

From Los Angeles, we welcomed Al Washington, CBP Security Supply Chain Specialist who

gave an overview of Customs-Trade Partnership Against Terrorism (C-TPAT). He was a very compelling speaker who told us about the importance of becoming a C-TPAT member and how companies who become a C-TPAT member can protect their supply chain and ultimately the American people.

Jill Franze from Cisco Systems followed Al and presented the certification steps and C-TPAT history of her company. We were again very fortunate that Jill shared her wealth of information and

Continued on page 3

**IN THIS ISSUE**

<b>Importer Optimization with CBP By Jo-Anne Daniels.....</b>	<b>Cover</b>
<b>PAEI Board of Directors and Officers .....</b>	<b>2</b>
<b>Join the European Union - Lose Your U.S. GSP Status by Dan Kromat .....</b>	<b>3</b>
<b>U.S. &amp; Australia Sign Free FTA - Congressional Approval Required By Dan Kromat .....</b>	<b>3</b>
<b>Failure of Customs to Reliquidate Entries In Accordance With A Favorable Ruling By George R Tuttle, III .....</b>	<b>4</b>
<b>Will Textile &amp; Apparel Quotas Go Away January 1, 2005? By Dan Kromat .....</b>	<b>5</b>
<b>Membership Events Questionnaire .....</b>	<b>6</b>
<b>Upcoming Events .....</b>	<b>7 - 10</b>
<b>Watch Us Grow! .....</b>	<b>10</b>
<b>P.A.E.I. Membership Application .....</b>	<b>11</b>

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**P.A.E.I. NEWSLETTER**

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charted Cisco's C-TPAT history from corporate sponsorship through certification and validation preparation.

Ray Brown from FedEx Trade spoke about C-TPAT from a carrier's perspective and gave a brief history of FedEx's certification.

The final speaker was George Tuttle who summarized the benefits of becoming a C-TPAT member. He advised a framework for a successful C-TPAT security plan and also outlined recommendations for a C-TPAT manual.

Attendees shared their enthusiasm for the program and stellar speakers who gave up their day to share their knowledge and expertise with PAEI members. As a token of appreciation, PAEI presented gifts to the speakers in gratitude for their contributions.

*(This article was prepared by Jo-Anne Daniels, Trade Consultant - Licensed Broker at Trade Resources & Associates, in El Granada, CA, <http://www.trade-resources.com/> She can be reached at [tra3332003@yahoo.com](mailto:tra3332003@yahoo.com) or at 650-726-6764)*

## **Join the European Union - Lose Your U.S. GSP Status**

**By Dan Kromat, PAEI Director**

Effective May 1, 2004, several Eastern European countries lost the (GSP) General System of Preference duty free treatment by joining the European Union. This was earlier reported in Presidential Proclamation 7758, dated March 1, 2004, pursuant to section 502(b) (1)(C) of the Trade Act of 1974 (as amended by 19 USC 2462 (b)(1)(C)) which prohibits members of the European Union from receiving USA GSP benefits, and these benefits are lost the

day they become European Union member states.

The countries losing their GSP status include: The Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland and Slovakia.

Ref: Federal Register, Volume 69, Number 96, Tuesday, May 18, 2004 (see page 28185)

## **U.S. & Australia Sign Free FTA - Congressional Approval Required**

**By Dan Kromat, PAEI Director**

On May 18, 2004, the U.S. and Australia took a major step in creating a new (FTA) Free Trade Agreement. The text of the FTA is available at <http://www.ustr.gov/new/fta/Australia/final/final.pdf> and is whopping 267 pages. As with other recent FTAs, there would be no Merchandise Processing Fees on originating goods, and qualifying tariff shifts and regional value contents percentages will be required for good under the FTA.

The President must now formally submit this signed FTA to the U.S. Congress for approval. Neither House of Congress can amend the FTA – they can only vote “up or down.” Congress will have 90 days to consider the implementing legislation for this FTA and if approved or “voted up,” it is expected the President will sign shortly thereafter.

If everything goes well in Congress, the new FTA could be in effect as early as January 1, 2005.

*(These articles 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](mailto:dan.kromat@ksicorp.com), or 650-228-7155.)*

## Failure of Customs To Reliquidate Entries In Accordance With A Favorable Ruling Is Not a “Mistake of Fact”

By George R Tuttle, III

(Reprinted with permission from the June 21 Newsletter of The Law Offices of George R Tuttle)

The moral behind this recent international trade case is that importers and their brokers have the sole responsibility to ensure that Customs applies any favorable classification treatment to both liquidated and unliquidated entries before the expiration of the 90-day protest period.

Recently, in *Fujitsu Compound Semiconductor, Inc. v. U.S.* (2004), the Court of Appeals for the Federal Circuit (CAFC) affirmed a decision by the Court of International Trade, which held that Customs' failure to reliquidate entries of laser diode modules on its own initiative did not constitute a mistake of fact, and could not be corrected under 19 U.S.C. §1520 (c).

For about 6 months *Fujitsu* imported the laser diodes at a duty rate of 4.2%. The entries all liquidated in early May 1992 at this same rate. If *Fujitsu* objected to this classification, it had to file a protest no later than August 1992. On June 2, 1992, however, Customs issued a ruling to Toshiba, changing the classification of laser diode modules, and lowering the duty rate to only 2%.

*Fujitsu* did not learn of the favorable ruling in time, and missed its opportunity to file a 1514 protest on its entries. Instead, *Fujitsu* filed a [Petition to Reliquidate Entries under 19 U.S.C. §1520\(c\)](#), arguing that Customs had an affirmative obligation to reliquidate the entries at the lower rate. This was premised on the argument that, at the time that Customs changed the classification of Toshiba's laser diode modules, the liquidation of *Fujitsu* entries had not become final (as they were within the 90-day protest period).

Both the Court of International Trade and the CAFC rejected *Fujitsu's* argument, and held that Customs was not obligated to reliquidate *Fujitsu's* entries, noting that Customs' lack of action in applying the ruling did not constitute a mistake of fact or omis-

sion. Instead, the court concluded that *Fujitsu* had the obligation to timely file its protests within the 90-day statutory period, and that the failure to do so meant that the company had lost its legal rights to contest the duty rate assessed on those entries.

The result in *Fujitsu Compound Semiconductor, Inc. v. U.S.* is based on a traditional application of Customs law, and the statutory division of responsibilities between importers and Customs. Had the court ruled otherwise, Customs offices around the country could be besieged with claims, long after a protest period had closed, that it should have known of a Headquarters decision and applied it to the importer's merchandise before the liquidation and protest period closed. While this has a certain fairness to it because Import Specialists are often the first to receive a ruling, they may not have enough information on other products to know if the ruling applies. However, this highlights another, more serious problem. Had *Fujitsu* known right away that the ruling was issued, or even that the classification of laser diodes was before Customs Headquarters, it could have filed protests on its products to suspend the tolling of the liquidation. While Customs' rulings database is now available to the public, it includes only final decisions, and often those decisions are released 60 days or more after the initial issuance of the ruling. Of equal benefit to the importing public would be information related to rulings or protests that are currently pending before Customs. This way, importers would be better informed of the issues affecting the goods they import, and prepared to take action if the circumstances require.

In conclusion, importers have an affirmative obligation to be proactive with respect to the Customs treatment of products they import. Failure to be aware of current issues affecting their goods can result in loss of favorable tariff and duty rate changes. To learn more on how you can be better informed of possible issues affecting the goods you import, please contact George R. Tuttle, III at (415) 288-0428 or via email at [geo@tuttlelaw.com](mailto:geo@tuttlelaw.com).

(George R. Tuttle, III is an attorney with the Law Offices of George R. Tuttle in San Francisco.)

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## Will Textile & Apparel Quotas Go Away January 1, 2005?

By Dan Kromat, PAEI Director

Most of us in the import community want the textile and apparel requirements to go away, and most of us expect them to go away for shipments exported on or after January 1, 2005. However, there are 88 Congressmen and 29 Senators who don't. These Congressmen and Senators have sent a letter to the President seeking his support for an emergency (WTO) World Trade Organization meeting to re-evaluate the January 1, 2005 phase-out of all textile and apparel quotas. The thrust of the letter addresses the expected China domination of global textile and apparel markets once the quota system is gone, and they estimate an eventual loss of approximately 30 million textile and apparel jobs worldwide.

These Congressmen and Senators are not alone in regards to these concerns. Over 70 trade associations from 38 countries endorse urging the WTO to extend the deadline from January 1, 2005 to December 31, 2007, essentially a three year extension, and hold an emergency session of the WTO, no later than July 1, 2004, to discuss the worldwide problems and concerns with terminating the existing quota systems, especially in relation to China's exports of textiles and apparel.

One might ask "what is the problem with China," and the answer from textile and apparel makers all over the world would be that it is almost impossible to compete with China, an extremely low wage non-market economy, whose currency is undervalued as most international financial experts would attest too. Add to this that without quotas and the cost of quotas, China's manufacturers would be more competitive than ever before.

China is now a WTO member country, and would on January 1, 2005 no longer be required to work under a quota system, but China being a WTO country was not contemplated by most countries years ago, when the Uruguay Round of WTO trade agreements set a four-year phase-out timetable for quotas.

For a twelve month period ending March 2004, (OTEXA) the Commerce Department's Office of Textiles and Apparel reports that textiles and apparel from China were up 53.9% over the previous twelve-month period (April 2002 through March 2003), and this surge was during a period when quota's were in place.

On another note, China's WTO accession agreement contained a special safeguard provision, in effect until December 31, 2008 for textiles and apparel, under which, the U.S. retains the right to impose quotas to address surges in imports of textiles and apparel articles from China, for which quotas have been phased-out.

In regards to Visa's, we will have to wait a few months to hear from (CITA) the Committee for the Implementation of Textile Agreements, and they may eliminate visa requirements altogether. Certain countries including China and 34 other countries have freestanding visa arrangements with the U.S., covering both quota and non-quota categories and this means that CITA will need to make a determination as to whether the visa requirements will continue. Apparently, the visa requirements will end January 1, 2005 for India, Costa Rica, El Salvador, Fiji, Guatemala, Hungary, Malaysia, Uruguay, Ukraine, Turkey, Slovak Republic, Russia, and Poland. Certain foreign governments have requested that the U.S. maintain visa requirements or some other form of monitoring of their textiles and apparel, even after their quotas are phased-out on January 1, 2005.

*(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.)*

**MEMBERSHIP EVENTS QUESTIONNAIRE**

The Board of Directors and Officers of (PAEI) The Professional Association of Exporters and Importers requests your consideration of the kinds of events that would be of value to you and your companies. To the degree possible, we want our membership to receive the educational and networking benefits that will assist in the growth of individuals and corporate employees.

Basically, PAEI has put on a variety of events in the past, including half day, full day, two day, quarterly luncheon programs, multi evenings training, and brown bag events. Many of these events provided Certificates of Completion.

The Board of Directors has discussed and approved turning our Back to Basics yearly seminars into weekly evening programs, starting in September 2004 – basically along the line of Brown Bag events. Past seminars contained basic and some advanced concepts of import and export laws. These have been beneficial to those fairly new to the import/export field as well as a refresher for the more experienced in our field. PAEI would like your opinion regarding covering these topics in a weekly evening series, likely starting in October. These short evening presentations would be free or a very low cost!

On a scale of 1-10 how would you rate the above idea? \_\_\_\_\_

How many weeks would you be willing to commit for a weekly series? \_\_\_\_\_

Comments: \_\_\_\_\_

PAEI will continue to put on the BIS one and two day seminars on export licensing and related topics.

This is where we need your input – providing PAEI with some specific ideas or topics that should be of interest to the membership. We appreciate your time and support, and your response will help us better understand the events you want to be part of. Please take a few minutes to write out your thoughts or ideas. If you have suggestions for speakers, please also include names, and contact information if known.

Export Events: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Import Events: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Other Events: \_\_\_\_\_

On a scale of 1-10, please rate your preference for meeting times:

Half day event \_\_\_\_\_ One day event \_\_\_\_\_ Brown Bag lunch events \_\_\_\_\_ Other events \_\_\_\_\_  
Two day event \_\_\_\_\_ Weekly evening series \_\_\_\_\_ Monthly evening series \_\_\_\_\_

Please fax your response to PAEI @ (408)-274-7611 or email to [khebertdms@aol.com](mailto:khebertdms@aol.com).



**The Bureau of Industry and Security  
and  
The Professional Association of Exporters and Importers  
are proud to offer:**

## **“Introduction to Export Management Systems”**

**August 10,, 2004  
8:30 A.M. - 4:30 P.M.  
at the  
Biltmore Hotel and Suites  
2151 Laurelwood Road  
Santa Clara, CA 95054  
(408) 988-8411**

This program provides individuals with a basic knowledge of export controls but with little or no knowledge of Export Management Systems with an overview of the measures companies may undertake to ensure that their exports are consistent with the Export Administration Regulations (EAR). BIS compliance professionals will provide information on developing export management elements, including a Statement of Corporate Policy Commitment, Identifying Export Control Personnel, Record Keeping, Training, Internal Compliance Reviews, and Notification. Discussion topics will include how to develop various Screening Elements, such as Denied Persons, Diversion-Risk, Proliferation, and Product Classification/License Determination Screens. BIS will also discuss a sample order processing system and highlight suggestions for placement of the screens at key points within the order process. For those who are just beginning to think about developing an Export Management System, the sessions will offer tips on how to get started.

**INSTRUCTOR:** Debbie Kapler, Director, Export Compliance Division, U.S. Department of Commerce, Bureau of Industry and Security. Ms. Kapler is an experienced export specialist from the BIS office in Washington, D.C. She will be available throughout the seminar to answer your questions on EMS.

**MCLE Credit:** *The Western Regional Office of the Department of Commerce, Bureau of Industry and Security is a State Bar of California approved MCLE provider. The amount of credit varies with the length of the seminar. However, 0 hours will apply to legal ethics/law practice management; prevention, detection and treatment of substance abuse and emotional distress; and elimination of bias.*

**Note: Americans with Disabilities Act:** If special arrangements are required for a disabled individual to attend this program, please notify the contact person at least one week prior to the program.

**ACCOMODATIONS**

Please make your reservations directly with the Biltmore Hotel and Suites by calling (408) 988-8411. Please mention "PAEI" to obtain a discounted rate of \$109 for the Garden rooms and \$129 for the Suites.

**QUESTIONS?**

For more information on the details of the program, please call BIS at (949) 660-0144, or (408) 998-7402 or PAEI (408) 532-PAEI (7234) or email at [khebertdms@paei.org](mailto:khebertdms@paei.org). You may also visit the web sites of PAEI <http://www.paei.org/> or BIS <http://www.bis.doc.gov/> for more information.

**REGISTRATION                      No telephone or fax reservations please.**

Advance registration is required for the Seminar and space is limited. Breakfast, lunch, coffee breaks, and training materials will be provided. No refunds for cancellations made after Tuesday, August 3, 2004. A confirmation email will be sent to all paid registrants to verify that their registration is complete.

You may register for this seminar and pay by credit card in a secure environment on PAEI's web site at <http://www.paei.org/>. We accept Visa/AMX/MasterCard only through the PAEI web site. Online registration must include the name of the attendee and their email address.

To pay by check, please send your check (payable to the Professional Association of Exporters and Importers, PAEI) in the amount of **\$195** to PO Box 612743, San Jose, CA 95161-2743. PAEI's Tax ID Number is 680117035. All mailed registrations must be postmarked no later than Thursday, July 29, 2004.

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**Please complete one registration form for each attendee. Please print clearly.**

Attendee Name: \_\_\_\_\_

Job Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

Street Address: \_\_\_\_\_

City, State, ZIP: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

Check No. \_\_\_\_\_

PAEI Member: YES    NO    (circle one) Membership Number: \_\_\_\_\_



**The Bureau of Industry and Security  
and  
The Professional Association of Exporters and Importers  
are proud to offer:**

**“Complying with U.S. Export Controls”**

**September 22 - 23, 2004**

**8:30 A.M. - 4:30 P.M.**

**at the**

**Biltmore Hotel and Suites  
2151 Laurelwood Road  
Santa Clara, CA 95054  
(408) 988-8411**

This two-day Export Regulations Course is led by BIS’s professional counseling staff and covers the information you need to know to comply with U.S. export control requirements on commercial exports. Presenters also conduct a number of in-depth, “hands-on” exercises that help prepare attendees to apply the regulations in their own companies.

The seminar will focus on:

- The scope of the EAR
- Steps to take to determine the export licensing requirements for your item
- When you can export or reexport without applying for a license
- How to apply for an export control classification number
- Export clearance procedures and record keeping requirements
- Introduction to the concept of an Export Management System (EMS)
- Real life examples will be presented applying this information.

This program is well suited for those who need a comprehensive understanding of their compliance obligations under the regulations. All seminar-training materials will be furnished.

**The Western Regional Office of the Department of Commerce, Bureau of Industry and Security is a State Bar of California approved MCLE provider. This course is worth 12 hours of MCLE credit. However, 0 hours will apply to legal ethics/law practice management; prevention, detection and treatment of substance abuse and emotional distress; and elimination of bias.**

**Note: Americans with Disabilities Act:** If special arrangements are required for a disabled individual to attend this program, please notify the contact person at least one week prior to the program.

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**REGISTRATION                      No telephone or fax reservations please.**

Advance registration is required for the Seminar and space is limited. Breakfast, lunch, coffee breaks, and training materials will be provided. No refunds for cancellations made after Tuesday, September 14, 2004. A confirmation email will be sent to all paid registrants to verify that their registration is complete.

You may register for this seminar and pay by credit card in a secure environment on PAEI's web site at <http://www.paei.org/>. We accept Visa/AMX/MasterCard only through the PAEI web site. Online registration must include the name of the attendee and their email address.

To pay by check, please send your check (payable to the Professional Association of Exporters and Importers, PAEI) in the amount of **\$295** to PO Box 612743, San Jose, CA 95161-2743. PAEI's Tax ID Number is 680117035. All mailed registrations must be postmarked no later than Friday, September 10, 2004.

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Job Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

Street Address: \_\_\_\_\_

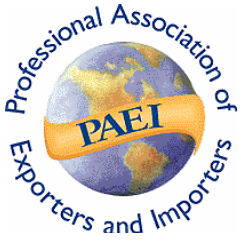
City, State, ZIP: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

Check No. \_\_\_\_\_

PAEI Member: YES    NO    (circle one) Membership Number: \_\_\_\_\_



## WATCH US GROW!

### February 2004

#### New

Juan Camilo Arciniegas  
Maureen Flanders      The Original Footwear Co.  
Shannon Knox         The Original Footwear Co.

#### Renew

Tina Ayala                Memec  
Jennifer Toralba        Telogy, Inc  
Nicole Halaby          Telogy, Inc  
P. Jean Yap  
Angela Colvin          Altera Corp.  
Isamu Takahana        Altera Corp.

### March 2004

#### New

Manuel Torres          Robertet Flavors, Inc  
Sam Wong                American Pacific Cargo, Inc

#### Renew

Aaron Hardy            Expeditors Int'l  
Ken Hashimoto         Expeditors Int'l  
David Fong              DHL Express  
Jeff Rittener             Intel Corp.  
Hans Luemers          Sun Microsystems  
Joseph Smith          SDV (USA)  
Christine Brinkerhoff   Cypress Semiconductor  
Michelle Diebert        Cypress Semiconductor  
Laura Lyons             palmOne, Inc  
Toni Paytas              Thomsen and Burke, LLP  
Dena M. Bry              DHL Danzas  
Kathy Alexander        Symantec Corp.  
John Ramirez            Communications & Power  
Johanna Avery          KLA Tencor Corp.  
Manny Litonjua         KLA Tencor Corp.

Brian Cochran            Logitech, Inc  
Gary McIntyre            Logitech, Inc  
Debbie Mayberry-Jensen JDS Uniphase  
Rocco Gattuso  
William Carter            Varian Medical Systems, Inc  
Eva Nash                  Varian Medical Systems, Inc

### April 2004

#### Renew

Kory R Minners         Dionex Corp.  
Michelle Scott-Horwitz Seagate Technology, LLC  
Mary R Breede          Seagate Technology, LLC  
Rodney Castro          Adaptec, Inc.  
Ted Sorensen            Adaptec, Inc.  
Martina de la Torre     Silicon Graphics, Inc

### May 2004

#### New

Lisa Quock Leong        Sun Microsystems  
Tansie Iwafuchi         National Semiconductor  
Mukundan Seshadri     Agilent Technologies  
Jennifer Halaszyn        Agilent Technologies

#### Renew

Cindy Shull              MK Technology  
Rafi M Sekandar         Scientific Technologies  
Russell Y Thomas        Scientific Technologies

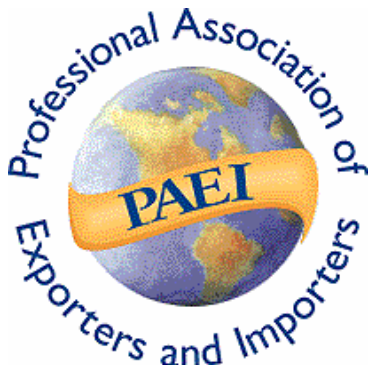
### June 2004

#### New

Patrick Pettipeice        PBMS  
Shari Thompson         PBMS

#### Renew

Myra Ramos              Traffic International Corp  
Jim Moreau               Baker & McKenzie  
John F. McKenzie        Baker & McKenzie  
Eric Mogi                  Sony Electronics, Inc  
Gary Sitts                 Xerox Palo Alto Research  
Rajat P Kuver             Kuver Horne, LLP



## 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/>.

**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.?** \_\_\_\_\_