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Director
U.S. Census Bureau
Room 2049, Federal Building 3
Washington, DC 20233

Re: Proposed Amendments to the Foreign Trade Statistics Regulations

Gentlemen:

This is in response to your request for comments on the proposed amendments to the Foreign Trade Statistics Reporting Regulations set forth in 70 Fed. Reg. 8200 *et seq.* (Feb. 17, 2005). Our comments pertain to the need for more than one participant in an export transaction to be able to file electronic export information ("EEI") though the automated export system ("AES") and for each to be held solely responsible for its own errors.

The goal of the AES is to ensure that information about an export is both timely and accurate. To accomplish that goal, the regulations need to make it clear that more than one participant in the transaction may file EEI though the AES with respect to a given export and that each submitter of information is solely responsible for any errors it may make in the accuracy of the information it submits. Doing so would reflect the realities of how export transactions take place.

At different points in an export transaction, for example, the exporter, the freight forwarder, the foreign principal party in interest in a routed export transaction and the carrier may each possess different information about the export at different points in the overall transaction. Each should be able to supply that information through the AES if authorized by the exporter to do so at the point when that information becomes available. Requiring all that information to be channeled through one party inevitably causes delays, creates the potential for error and diffuses the sense of responsibility for accuracy that each supplier of information should have.

The U.S. principal party in interest, moreover, is typically held responsible by Customs for errors in electronic and other export information filed by the freight forwarder even though the error is solely the freight forwarder's. In transactions like routed export transactions, Customs also typically holds the U.S. exporter responsible for errors made by the freight forwarder chosen by the customer even though the exporter has no contract or other on-going relationship with the freight forwarder. Holding the exporter responsible for errors it did not commit is not only unjust but also provides no incentive for the freight forwarder to ensure that it performs it functions in a responsible manner.

Permitting more than one party to file EEI through the AES with respect to a given transaction would foster the very automation that is at the heart of the AES. The exporter would not be required to send things like post-shipment information to the carrier before the information is loaded into the system.

Permitting more than one party to do so would help ensure that the government has accurate information. The party most familiar with the aspect of the transaction it is handling is in the best position to provide error-free information.

Permitting multiple-party access to the AES directly would avoid the kinds of errors that are inevitable when information is passed from one party to another for filing.

Permitting multiple party access to the AES would reduce the overall transaction costs of an export transaction by reducing the number of parties handling information supplied by others in submitting EEI.

Permitting multiple-party access to the AES would make it possible for information about the shipment to be known to Customs at a much earlier stage in the export transaction. For example, vitally important information about the nature of the export and its intermediate and ultimate destination would be known as soon as the export leaves the exporter's dock. Customs would not have to wait until the shipment is in the hands of the freight forwarder to obtain some of the information needed to perform export and other enforcement responsibilities. This would obviously help improve the Nation's security by making it possible for law enforcement to concentrate its resources on exports that need to be carefully scrutinized. It would also help ensure that exports that do not require scrutiny are on their way without delay.

And holding each submitter of information responsible for the errors that it commits would ensure that responsibility resides where it belongs.

I hope these comments are helpful. They are intended to help Census ensure that the AES fully lives up to its promise of improving the data collection and national security functions of the U.S. government while easing the burdens on the exporting community.

Sincerely yours,

Stanley J. Marcuss

SJM/sss