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#48546
FTD
Orig: DIR
T. Casey

received
4/21/05

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

Re: Mandatory Automated Export System Filing for all Shipments Requiring Shipper's Export Declaration Information (15 C.F.R. Part 30, Docket 031009254-4355-02, RIN 0607-AA38).

Dear Sir:

Sun Microsystems, the world's leader in networked systems, comments on this notice of proposed rulemaking addressing requirements for mandatory filing under the Automated Export System (15 C.F.R. Part 30). We wish to point out some urgent specific issues that require further attention.

1. **Air cargo pre-shipment filing deadlines**

15 C.F.R. Section 30.4(b)(2)(ii) specifies that the EEI be filed by the USPPI or authorized agent no later than two hours prior to the scheduled departure time of the aircraft. As stated, this deadline should hold true regardless of the time of day that the aircraft departure is scheduled.

However, it has been our experience that certain field offices who maintain limited business hours (e.g., 9:00 a.m. to 5:00 p.m.) have interpreted this requirement as meaning that the required filing must be submitted two hours prior to closure of the local office for all flights leaving after that time. As a result, this two-hour requirement can effectively be telescoped into twelve or more hours.

This interpretation represents a significant burden, and we believe is not consistent with the intent of the proposed rule. It can be addressed by providing alternate means for reviewing EEI data for after-hours flights for those offices maintaining limited business hours, and noting this procedure in the rule.

2. **Provision for correcting errors**

15 C.F.R. Section 30.71 provides a period of four calendar days of the receipt of the original transmission to transmit correction in the case of fatal AES errors, with the USPPI or authorized agent required to review filing practices and take whatever corrective actions are needed to conform to export reporting requirements.

While we view this as a reasonable standard, it should not be limited to fatal errors identified by Census Bureau software. In particular, other typographical errors identified either by Census, CPB, the USPPI or other parties, including those that result in detentions, should have a period for remediation prior to interdiction, detention, or seizure. In case of foreign detention, high value product lost or damaged while under CPB detention/custody may have consequences under the

existing claim procedures of the Treasury Department for CBP employees. It would be in the interest of CBP to avoid CBP detention/custody for clerical, or insignificant AES reporting issues.

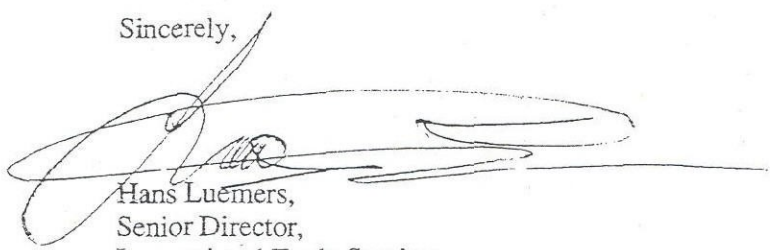
3. **The need for clearer mitigation guidelines**

While 15 C.F.R. Section 30.72(c) states that penalties may be remitted or mitigated in the absence of willful negligence or fraud, we believe that clearer and more extensive guidelines are required for reduction or mitigation of civil penalties.

Mitigation guidelines exist for both import cases and for civil enforcement cases under the Export Administration Regulations. Sun strongly feels that similar mitigation principles should apply for the successor AES filings.

We again thank you for the opportunity to comment, and stand ready to work with you in addressing these remaining issues.

Sincerely,



Hans Luemers,
Senior Director,
International Trade Services
Sun Microsystems