

EXPORT/IMPORT NEWS

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Special Points

- **Transaction Value** is the preferred valuation method by Customs. This is the price paid for merchandise in a **buy sell** transaction.
- **Deductive Value** is the resale value for **like** products.
- **Computed Value** is computed by using the **cost** of manufacturing the goods.
- **Related parties**, often affect the value of the import.
- **Drop shipments** may have a **different value** at import than at export.
- Non-recurring tooling and engineering (**NRE**) are examples of **assists**, and are **additions** to the price paid or payable
- **Assists** are **difficult to manage** and are one of the **first things Customs looks for** in a review or **audit**.

VALUATION

BY TED GALANTOWICZ - EMERSON ELECTRIC, ST. LOUIS, MO

Determining the value to report to Customs for imported goods is not always a simple matter. But to Customs authorities around the world, it is very important. Proper value determines proper duty. And proper value means proper import value statistics.

The predominate methodology for Customs valuation is "Transaction Value"; the price paid or payable in an arms-length sale. An example of transaction value is where a company places a purchase order (PO) for a product, and buys it for the PO price. The import value is the PO price. When a price can't be determined, such as when a sale does not occur alternative valuation methodologies must be used, such as "Deductive Value" or "Computed Value". Deductive Value is determined by taking a resale value in the U.S and deducting certain costs such as duty and profit in the U.S. "Computed Value" in many

cases may be used as an alternative to Deductive Value.

Computed Value is based on *actual costs* (overhead and direct) plus profit. When the actual costs aren't yet determined, standard or estimated costs are permitted. However, the entries need to be flagged, and once the actual costs are known, the flagged entries can be *reconciled* to the actual costs. Computed value is a common value methodology used in imports from Maquilas or in certain related party transactions. Often the relationship between a parent and subsidiary can affect the price paid or payable. What may seem like transaction value be-



Determining the proper value can be complex when dealing with related parties.

tween subsidiaries might not be acceptable to Customs. If the importer and seller are related and the price is reduced one time to meet competition, Customs may not allow transaction value, and may require deductive or computed value.

Drop shipments can also affect the value. The import value is the value paid by the importer, not the value charged by the exporter. On a drop shipment, the goods are often re-sold at a higher price.

ADDITIONS OR CHANGES TO THE PRICE PAID OR PAYABLE

BY CHUCK BALLARD-EMERSON PROCESS MANAGEMENT, EDEN PRAIRIE, MN

Oftentimes, even on a simple transaction order, there may be additions to the price of the goods being sold. Non-recurring Engineering or tooling (NRE) increases the price of the units being bought. Unfortunately, NRE may not show up on the invoice sent with the import, because NRE isn't being shipped. However, it is dutiable and the importer (not the seller) is responsible for ensuring that the tooling and engineering is

properly declared to Customs. These are commonly referred to as assists. Assists can take other forms as well. Equipment sent by the importer to the foreign supplier for free (or reduced value) is also considered an assist. This may occur when a company transfers production from one plant to another. So are instances when a parent sends parts to a plant to be used in manufacture. Design and engi-

neering drawings that "assist" a supplier in engineering a product are also assists. Build to print drawings which call out specifications or sizes and are incidental to production are not assists. A key determinant is whether the drawings are necessary for the production of the goods. Assists can be difficult to control. Customs knows this, and it is always one of the first things they look for when reviewing a importer's system.



The FCC regulates many electronic components to ensure that unrestricted radio frequencies don't interfere with US Commerce.

FEDERAL COMMUNICATIONS COMMISSION

BY LEAH STODDARD—PROCESS SYSTEMS AND SOLUTIONS, AUSTIN, TX

In January of 2007, the Federal Communications Commission (FCC) moved many Harmonized Tariff Schedule numbers (HTS) from the status of “may require FCC” to “is required”. Also included were many HTSs that were not subject to the FCC in the past. This new status went into effect virtually overnight with little notice. This new requirement caused thousands of import clearances delays throughout the U.S. In order to fulfill the requirements of the FCC, the Importer of Record (IOR) must provide their Customs Broker with a FCC form 740. This form requires the name and address of the manufacturer

of the part in question and all FCC details about the product. Importers must work very closely with their Procurement staff to obtain this information. In some cases, the part in question is procured from a distributor way down in the supply channel. Getting the correct information is not always easy. Importers need to look at this very closely and insure that all involved in this project truly understand the true meaning of Country of Origin (COO). It's always critical that the COO is listed correctly on the invoice, but especially here as the manufacturer's details will be on the FCC forms (not necessar-

ily the supplier). All Emerson Import Managers should begin to gather this information on products that now require FCC submission. Procurement should begin to request that the suppliers provide them with a Certificate of Origin for the part that they supply. If a supplier should change manufacturers then they need to supply Procurement with an updated certificate. Your Import Brokers should keep the completed FCC form 740 on file for future clearances. Emerson Import managers should keep both on file. This project will be very small for some divisions and a nightmare for others. Thanks FCC!

“...ACE provides importers with near real time access to entry-by-entry data...”

Automated Commercial Environment

BY TED GALANTOWICZ—EMERSON ELECTRIC, ST LOUIS, MO

Since 2005, U.S. Customs and Border Protection (“CBP”) has worked to establish the Automated Commercial Environment (“ACE”). The ACE system is meant to modernize CBP processes and replace several outdated electronic systems. Full deployment of ACE will take a few more years. However, CBP recently implemented the ACE Secure Data Portal, which provides importers with near real-time access to CBP's entry-by-entry data.

Through the portal, data previously accessible only with the help of a customs broker or written inquiries to CBP are now available directly to the importer via the Internet. Although the ACE Portal can experience some system delays and downtimes, a current view of entries on file with CBP is a powerful tool. An importer considering how to meet the requirements of import compliance, while recognizing the reality of limited time, should download

reports from ACE regularly. By reviewing the columns of import data, most importers will see recurring patterns. Entries that break those patterns will warrant time spent on closer examination to determine whether an error occurred that can be corrected and/or prevented in the future. Contact the Corporate International Trade Compliance Group (Theresa Duing, 314-553-2294) if you need access to ACE.



Descriptions on shipping invoices need to be clear or classification errors can be the net result.

WHAT IS A PIRANHA?

BY CHUCK BALLARD—EMERSON PROCESS MANAGEMENT, EDEN PRAIRE, MN

Ok, time for a short quiz: What is a Piranha? Is it: A) a voracious meat eating fish found in the Amazon Basin; B) a book, C) a horrible “B” movie which went straight to video (or should have); D) a valve made by Emerson; or E) All of the above. The answer is “E” all of the above, and helps illustrate why it is important to have a clear description on the invoice that accompanies a shipment. Imagine the chaos that ensued when a Brazilian customer returned the

“Piranha” valve to the Emerson factory. When the valve first entered the US with only the description “Piranha” on the invoice, US Customs immediately sent it over to the US Fish and Wildlife area who were unconvinced that valve and “Piranha” were one and the same. By the way, Piranha (the fish anyway) are banned from being imported into the US. Model or product names can create confusion. They may be recognizable by us but not necessarily to Customs or a Customs Broker.

Using part numbers is generally wise, it can determine specifically what the product is, but by themselves, are fairly useless. When describing a product on an invoice the information needs to be clear to everyone, the importer, Customs, as well as the company shipping the goods. It should also reflect the HTS classification. Failure to make descriptions clear can lead to delays at best, but can often lead to improper classifications. That can lead to fines and long term negative consequences for future shipments.

China Catch-all Rule

BY JULIE WALLACE—MICRO MOTION INC., BOULDER, CO

The Bureau of Industry and Security (BIS) recently published a new set of China regulations, which are collectively known as the “China Rule”. The intent of the China Rule is to enable US companies to competitively trade with China by balancing trade opportunities with legitimate Chinese end-users against the threat of Chinese military modernization efforts. Many products sold to China today are “dual-use” products because they can be used in both civilian and military applications. Under the China Rule, the U.S. is unilaterally adding controls to certain ECCNs. US Industry and the Chinese government are

generally unhappy with this new rule and believe it will hurt US competitiveness. The China Rule establishes a “Validated End-User” (VEU) program that allows trusted Chinese customers to receive certain otherwise licensable product without an individual export license. To be “trusted”, the Chinese company must have a proven track record of responsible civilian use of these products. While the administrative and regulatory burden of exporting to these trusted customers will be reduced once these companies obtain approval, so far only a few Chinese customers have requested certification.

To offset China’s military build-up, the China Rule also imposes new controls on exports destined for military end-use in China. These new controls are for sensitive dual-use technologies, such as laser and radar equipment, that can be used in Chinese weapons systems. The BIS predicts that as the China Rule matures and grows, it could result in millions of dollars of US exports without increasing the contribution to China’s military. However, US Industry contends that it will only serve to make US goods that much more difficult to compete against other countries’ goods.



The China Catch-all rule is supposed to make it more difficult for the Chinese to use dual use products in their military. However, critics contend it will only serve to hurt US industry..

USPPI RESPONSIBILITIES

BY LISA FISHER-ROSEMOUNT, CHANHASSEN, MN

The U.S. Principal Party in Interest (USPPI) is the U.S. Seller, a U.S. Manufacturer, U.S. Order Party or foreign entity if physically in the U.S. Basically, the USPPI is the party that receives the benefit from the export. The USPPI has certain responsibilities. Except in routed export transactions, the USPPI responsibility includes preparing the Automated Export System (AES) record OR authorizing a forwarder to prepare and

file the AES record on its behalf. The forwarder will need a power of attorney. If a forwarder submits the AES, the USPPI must provide enough information for the agent to complete the AES record and do the export clearance. This includes the country of ultimate destination, product specific information including the USHTS numbers, ECCN and license number or license exceptions. If an item is a munition

controlled by the International Traffic and Arms Regulations, the correct munitions category, license number or license exemption must be supplied. Maintaining documentation is required to support the information reported on the AES record, as well as assuring the forwarder files information accurately. Getting a copy of the filing from the forwarder is part of the recordkeeping requirements.

“...getting a copy of the AES information filed is part of the recordkeeping requirements...”

ECCNs NEED TO BE ACCURATE!

BY CHUCK BALLARD – EMERSON PROCESS MANAGEMENT, EDEN PRAIRIE, MN

Before a shipment can be exported, the exporter must know the merchandise’s Export Control Classification Number (ECCN). The ECCN determines whether or not the commercial goods being exported require an export license to ship to the destination they are going to. Exporters that export without knowing the ECCN of the product do so at great peril. Having an ECCN is important, but just as important, is that it be accurate! The Bureau of Industry and Security

(BIS) has prosecuted a number of exporters in the last couple of years whose only error was that they used the wrong ECCN. Reliance on assumptions or suppliers does not relieve the exporter of his responsibilities under the export regulations. Most products carry an ECCN of EAR99, the least restrictive of all ECCNs. However, if the person assigning an ECCN does not understand how ECCNs are determined, there is a good likelihood an error is eventu-

ally going to be made. Companies have the right to assign ECCNs to their products, but they must be accurate. BIS will assign an ECCN for an exporter through the “CCATS” process, although the exporter may run the risk of having a more restrictive ECCN assigned if information is unclear or incomplete. Ideally, divisions assign their ECCN at time of part number set up. Gatekeepers with engineering and product as well as compliance knowledge often work best.



Having an accurate ECCN is essential for any export.



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Compliance at Asset Optimization works with Emerson Process Management's Trade Compliance Department regarding International Trade Compliance policies and procedures that have been reviewed or established by the Emerson Law Department.

ASSET OPTIMIZATION COMPLIANCE CONTACTS:

Machinery Health John Mee
IVS: Phyllis Van Gilst
ERS Bill Hanna
PTD: Derek Maidlow
Europe: Simon Heaps or Dave Noble

VISIT OUR WEBSITE!

[http://
rosewire2.ep.frco.com/
epm_tradecompliance/
index.html](http://rosewire2.ep.frco.com/epm_tradecompliance/index.html)

Trade Compliance isn't an Option, It's the Law!

INTERNATIONAL TRADE
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Chuck Ballard-Team Leader
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Hamam Rehman
Julie Wallace

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EVIDENCE OF EXPORT IN THE EUROPEAN UNION

BY HAMAM REHMAN-EMERSON PROCESS MANAGEMENT, LEICESTER, ENGLAND

According to the European Union (EU) Rules, export transactions can only be zero rated for VAT (Value Added Tax) provided the conditions laid out by the relevant Customs authorities are met. These conditions may vary between member states. The primary requirement is that the exporter must provide proof that the goods we exported. This can take various forms as either official or commercial transport evidence. Official evidence is in the form of a Single Administrative Document (SAD) endorsed by Customs at the point of exit from the EU. Commercial transport evidence is usually covered by authenticated air waybills, bills of lading, or other approved documents. While Customs in certain EU countries may accept commercial transport evidence, some countries will only accept an SAD as proof of export. It is



In some EU Countries, an ExWorks transaction can be considered a domestic shipment for VAT purposes.

important to check local country requirements to ensure compliance. Additionally, supplementary evidence is also required within the accounting system showing customer's order, shipping invoice with correct values/quantities, parties to the transaction and descriptions, and evidence of payment. The other important rule is related on 'Place of Supply' and the basis for this is to determine whether all the parties to

a transaction are outside the EU and where the goods were physically shipped from. If the goods are exported to a 3rd party and the invoice to party is based in the same country, then it becomes a domestic supply and full VAT rate is applicable to the transaction. In some EU countries, an EXW shipment is also classed as a domestic shipment even when the goods are physically exported from the EU. This is on the basis that the first chain of transaction occurs when the local freight forwarder collects the goods on behalf of the customer, hence VAT becomes applicable. Finally to substantiate zero rating transaction, proof of export must be retained for a period of six years and they have to made readily available to any visiting Customs officer during an audit.