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Is your export shipment a Routed Export Transaction?

Do you have export transactions where your foreign customer has directed you to deliver goods somewhere within the U.S. to a freight forwarder engaged by that customer? Or, possibly, the foreign customer's freight forwarder has come to your shipping location to pick up the goods. Once the goods are in the hands of the customer's freight forwarder, it will arrange for and facilitate the export of those goods from the U.S. to the foreign customer's location. It is not only performing a logistics function, it is also performing a legal function on your behalf.

With some exceptions, the export of goods from the U.S. must be reported to the U.S. Government through the Automated Export System (AES). Typically, you or your own freight forwarder would do this on your behalf. Here, a freight forwarder working on behalf of a foreign client is going to be handling these legalities for you.

In this situation, you are engaging in a Routed Export Transaction. A Routed Export Transaction is where the foreign customer/buyer authorizes a U.S. forwarder or other agent to facilitate export of items from the United States. Some common examples are shipments made to Laredo or Brownsville, Texas that are consigned to a forwarder designated by the Mexican buyer. How about sales to Latin American customers where you are directed to deliver to a customer designated forwarding agent in, say, Miami, Florida.

Historically, concerns of U.S. sellers in such situations have been: (1) will the forwarding agent properly and accurately submit the required export data to the U.S. Government and, (2) will the goods actually get to where they were intended and not be diverted in a way that is contrary to U.S. law. These concerns were based on the fact that the agent was not working for you as the seller and, therefore, not under your direct control. Further, problems were generated due to many U.S. sellers incorrectly believing that they had no export control/compliance responsibilities in these situations, but they did.

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Is your export shipment a Routed Export Transaction? continued . . .

These concerns were addressed through the U.S. Government's recognition and codification into regulation of a Routed Export Transaction. First, it defined the U.S. seller as a U.S. Principal Party in Interest (USPPI); the party in the U.S. who gains the primary benefit, monetary or otherwise, from the international transaction.

Second, it provided that if a USPPI declares an export shipment as a Routed Export Transaction, then the USPPI is obligated to provide to the customer's designated freight forwarder all the shipment information required for that forwarder to file a complete and accurate Shipper's Export Declaration or an AES electronic record. Third, it provides that USPPI may request from the forwarder written verification, in some form, that the information provided was properly conveyed to the U.S. Government.

Finally, the USPPI is no longer held liable should the shipment of goods be diverted in a manner contrary to U.S. law if the USPPI did not know of or agree to such diversion. However, this does not relieve the U.S. seller (USPPI) from any other export compliance obligations, such as screening the foreign customer against the denial lists, screening for prohibited end-users or end-users. There can also be an issue such as: 1) an export license was required; 2) an export license was not obtained; 3) the customer's freight forwarder says that you did not provide enough information about the product for them to identify it as licensable. And so you are still in the thick of it.

You "declare" a Routed Export Transaction by advising the customer's freight forwarder of such. When you communicate the required information about the shipment to this forwarder you must include the statement that it is a Routed Export Transaction. Certainly, all communication should be in writing and a copy of same retained by the USPPI for its own records.

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