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## India Gets Special Export Treatment From Commerce

The news yesterday from Commerce was significant for Greenberg Traurig's growing India practice. On October 2, 2007, U.S. Secretary of Commerce Carlos M. Gutierrez announced the establishment of a new Validated End-User (VEU) Program for India. The VEU Program, which was originally announced by The White House in 2006 and previewed by Secretary Gutierrez at the U.S.-India CEO Forum this past week, is designed to facilitate and increase bilateral high technology trade while maintaining a secure U.S. export controls system. The VEU Program will enable U.S. companies to capitalize on business opportunities by eliminating individual license requirements on the export of certain U.S.-controlled items to pre-authorized customers in India.

According to Commerce, U.S. exports to India have increased by 66 percent since 2004. As India is one of the fastest-growing markets for U.S. businesses, the VEU Program is anticipated to generate millions of dollars in additional U.S. high-tech exports to India in such sectors as electronics, avionics, aerospace and life sciences.

Effective October 2, Commerce amended Part 748.15 of the Export Administration Regulations (EAR) to add India as an eligible destination for exports, reexports and transfers under Authorized Validated End-User. Currently, many items, including certain technologies, still require individual export licenses for sale or export to India. Under the VEU Program, such technologies would not require an individual license if exported to a business entity pre-approved as a "Validated End-User." The VEU authorization is not all-encompassing, however, as it does not extend to items controlled under the EAR for missile technology (MT) or crime control (CC) reasons.

Under the Program, any end-user in India is eligible to apply for authorization as a VEU. In addition, U.S. exporters may propose end-users to BIS to be considered for VEU status. Requests for authorization of VEU status are submitted in the form of an advisory opinion request to BIS, where they are reviewed by the End-User Review Committee (ERC) during a 30-day review period. The ERC will evaluate applicant-entities according to numerous factors, including the applicant entity's record of exclusive engagement in civil end-use activities; the applicant entity's record of compliance with U.S. export controls; the need for an on-site review prior to approval and the applicant entity's agreement to subsequent on-site reviews to ensure adherence to the conditions of the VEU authorization; the applicant entity's capability of complying with the requirements of the VEU authorization; and the applicant entity's relationships with both U.S. and foreign companies.



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