



Unregulated E-Waste Keeps the Counterfeiters' Funnel Full

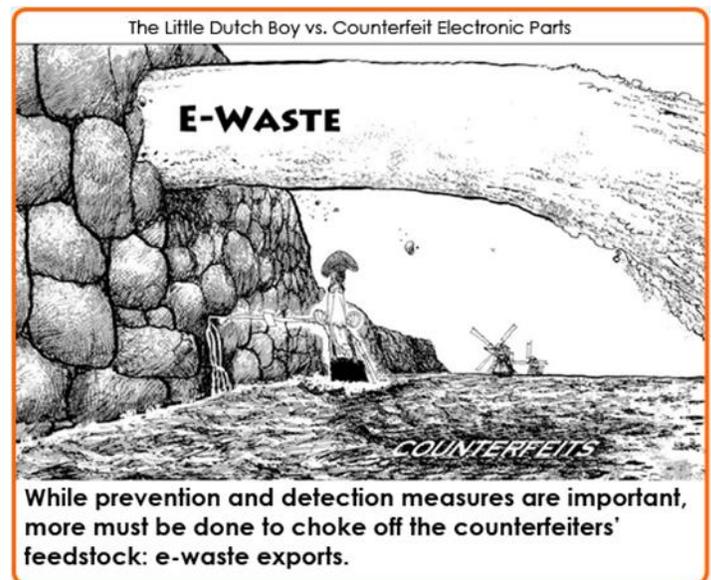
By Kristal Snider, ERAI

It is 2016: fifteen years since China was admitted to the WTO and the first counterfeit part was reported to ERAI; a decade since ERAI's President made a second trip to China to see first-hand how e-waste was being used to fuel what has been referred to as a "counterfeit epidemic"; and nine years since I wrote and distributed a report titled "A Time For Change" highlighting the devastating impact e-waste converted to counterfeits was having on the supply chain. But it was less than five years ago, on November 8, 2011 when the Senate Armed Services Committee released a report titled "[The Committee's Investigation Into Counterfeit Electronic Parts In The Department Of Defense Supply Chain](#)" in which the Committee directly identified counterfeit electronic parts as a "national security risk", that counterfeit avoidance and awareness started to pick up steam. Government, industry, enforcement agencies and all tiers of the supply chain from independent distributors to prime contractors have united, collaborated and worked tirelessly to produce standards, studies, white papers, trainings, legislation, as well as products and services which have forever changed the way electronic parts and material are purchased, inspected, tested, sold and integrated. We can be proud of these accomplishments, but there is more to do.

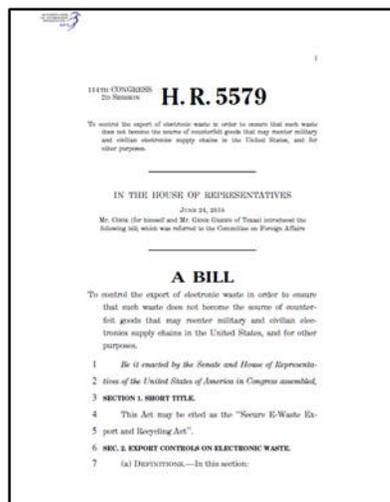
E-waste dumping drives the counterfeit electronics components industry, kills small businesses, threatens national security and funds criminal organizations, all of which are taking an enormous toll on the global economy and human safety. Despite the federal government's awareness of these risks, the United States is the only developed nation that has not ratified the Basel Convention which was designed to limit the movement of hazardous waste from developed to developing countries and, despite several attempts, no federal e-waste recycling mandate currently exists. Two previous bipartisan bills were introduced which would forbid U.S. companies from exporting e-waste: H.R.2284 - Responsible Electronics Recycling Act (introduced June 22, 2011) and H.R.2791 - Responsible Electronics Recycling Act (introduced July 23, 2013). Both versions of the bill died.

On June 24, 2016 Rep. Gene Green (D-TX), along with Rep. Paul Cook (R-CA), launched a third attempt to stop the flow of electronic waste to China and other countries known for producing counterfeit electronic parts by introducing [H.R. 5579, the Secure E-waste Export and Recycling Act \(SEERA\)](#).

According to the Coalition for American Electronics Recycling (CAER), the voice of the emerging e-waste recycling industry on Capitol Hill, a significant portion of U.S. e-waste ends up with sham recyclers and



exporters willing to ship unprocessed and untested, used electronics overseas. I spoke with Robert Houghton, CEO of Sage Sustainable Electronics, a leading provider of IT asset retirement services, a co-founder of CAER and a CAER steering committee member to better understand why past attempts to pass similar legislation did not pass and to find out what we can do to support SEERA.



KS: E-waste is said to be the fastest growing segment of our domestic waste stream. Even though China surpassed the U.S. as the world's largest e-waste generator, supporters of SEERA contend counterfeiters still rely on our exports since the U.S. remains one of the few countries that allows unrestricted exports of untested, nonworking e-scrap. How will this bill change that?

RH: SEERA will combat electronics counterfeiters by substantially reducing the supply of materials they use as raw materials – unprocessed e-waste exported from the United States. SEERA, which was introduced last week as H.R. 5579, will restrict exports of untested, non-working electronic scrap under the Export Administration Act of 1979 (EAA) that regulates exports for national security and foreign policy reasons.

The legislation does not apply to new devices, and will not limit the export of most used electronics, providing key exemptions for categories at low risk for use as feedstock for counterfeiters:

- Tested, working used electronics
- E-scrap that has been shredded or de-manufactured may be exported for use as feedstock for smelters and other recycling processes
- Recalled electronics may be exported for repairs

This approach is consistent with CAER's long-standing support for free trade in value-added products, such as the commodities generated from the recycling process, while restricting export of untested, non-working e-scrap that provide essential raw materials for counterfeiters. In addition to combating counterfeiting, these policies will create American jobs, promote investment in our domestic recycling and increase trade in tested, working electronics. A recent study found that this approach will create 42,000 U.S. jobs with an annual payroll of \$1 billion, with more added as the demand for services continues to grow.

"China regularly counterfeits electronics and puts these dangerous products, including critical military equipment, back into the market. These electronic components threaten the reliability and safety of a wide range of technology. SEERA will ensure we're not exporting electronic scrap materials that come back to us as counterfeit parts and undermine the reliability of technology essential to our national security."

- Rep. Paul Cook (R-CA)

KS: This is CAER's third attempt to pass legislation. Previously the coalition rallied behind H.R.2284 and H.R.2791 but neither of these bills passed. Why do you think SEERA will be successful?

RH: We think SEERA will be successful because it responds to the growing concerns on Capitol Hill about

the threat of counterfeits. In advocating for previous bills, we focused primarily on the potential for job creation and business growth with security as a secondary focus. However, many lawmakers told us that while job creation was important to them, the national security implications were much more pressing. SEERA provides all the benefits of the previous bills with a stronger emphasis on security. And where previously the EPA was slated for enforcement, SEERA designates Customs and Border Protection as the enforcing agency, which we believe will be more effective. The electronics industry can play an important role by showing broad support for this legislation.

KS: We spoke about how a bill becomes a law and why timing and broad industry support is imperative in getting one passed. Can you explain the urgent need for action to support SEERA so ERAI Members and our readers understand why their immediate support is needed?

RH: We need Congress to act by the end of the year when the current session concludes. Since the start of the 113th Congress in early 2015, we have devoted extensive time and energy to educating Congressional leaders about this issue and working to refine a legislative approach. With the session concluding in a few months, we need Congress to act. The sooner we can get SEERA enacted, the faster we can begin choking off the supply of feedstock that is undermining our security.

KS: ERAI has created a new [E-Waste Knowledge Center](#) in order to help individuals and organizations better understand electronic waste and the danger it poses as a source of material for counterfeiters as well as the significance of the of the Secure E-Waste Export and Recycling Act (H.R. 5579). We want ERAI Members to be fully informed and for those individuals and companies that see the need for and value of this legislation to show their support by writing to Congress. As we have already learned, introducing legislation and getting it enacted into law are two different things. As an expert in this area I am hoping you can explain the importance of writing to Congress.

RH: Nothing is more persuasive for Congressional offices than hearing from their constituents. Right now it is especially critical that we show support to members of the [House Foreign Affairs Committee](#). If your company or home is located in the district of a member of this committee, please contact us and we will assist you in preparing a letter. Use this easy [online tool](#) to verify in which District you are located. A list of Foreign Affairs members is available [here](#). However, there is also value in writing to other members of Congress outside Foreign Affairs. Feel free to [contact us via email](#) if you have questions or need help.

KS: What else do you want ERAI Members and readers to know?

"This problem will continue to grow unless Congress acts to ensure that electronic waste is recycled responsibly in the United States and out of the hands of counterfeiters overseas. The Secure E-waste Export and Recycling Act (SEERA) will help ensure our servicemen and women have reliable technology to protect our country and create thousands of jobs in Texas and recycling facilities around the country."

"I have worked on e-waste for nearly a decade and look forward to Congress holding hearings on this bipartisan legislation and seeing it come before the full House for a vote."

- Rep. Gene Green (D-TX)

RH: Now is the time for everyone concerned about counterfeits to speak up – your voice can make a difference. Electronics counterfeiting is a complex, multifaceted challenge, and SEERA can be a key part of a solution that complements the good work on procurement reform and other measures.

KS: Thank you Robert for your time, your expertise and the extraordinary work done by everyone at CAER.

What You Can Do Today

Write a letter of support to Congress. We have included a [sample letter](#) of support for those interested in backing this legislation.

Join CAER

ERAI members are welcome to join CAER as Supporting Members at no cost. This category of membership is for organizations that are committed to the cause but are not part of the American electronics recycling industry. Supporting members are listed on our website and receive periodic updates on our progress along with action alerts.

CAER Membership Application

http://www.americanerecycling.org/images/CAER_Member_Form.pdf

As an industry we have already proven, despite broad differences of opinion, when we unite we can truly make a difference. Controlling the exportation of e-waste will not eliminate counterfeit risk but we do believe it will reduce the number of counterfeits entering the supply chain.



About Robert

Robert Houghton has served as CEO of leading companies in electronics reuse and recycling for twenty years. He served as Interim Executive Director of the e-Stewards electronics recycling certification program, and is a co-founder of the Coalition for American Electronics Recycling (CAER). Robert is currently CEO of Sage Sustainable Electronics, www.sageSE.com.

About CAER

(www.americanerecycling.org)

The Coalition for American Electronics Recycling is the voice of the e-waste recycling industry on Capitol Hill. CAER represents more than 140 companies that operate a combined 300 processing facilities in 35 states, Puerto Rico and the District of Columbia. These companies share in the philosophy that electronics recycling should be performed securely to protect our nation's security and for the benefit of the American economy. For the last several years they have been working on federal legislation to address the exportation of untested, nonworking e-waste that counterfeiters use as cheap raw material.

You can reach CAER at members@americanerecycling.org

Additional Reading

Reps. Green and Cook Introduce Bi-partisan National Security Bill

<https://green.house.gov/media-center/press-releases/rebs-green-and-cook-introduce-bi-partisan-national-security-bill>

Electronics Recycling Leaders Praise Introduction of Secure E-Waste Export and Recycling Act (SEERA)

http://www.americanerecycling.org/images/SEERAIIntroduction_FINAL_6_27_16.pdf

The Secure E- Waste Export and Recycling Act (SEERA) – Overview

http://www.americanerecycling.org/images/SEERA_Summary.pdf

Unregulated E-Waste Exports Fuel Counterfeit Electronics That Undermine U.S. National Security

http://www.americanerecycling.org/images/Counterfeiting_position_paper_3_1-16.pdf

Counterfeit Electronic Parts: Manufacture of and Avoidance

<http://articles.sae.org/13923/>

E-Waste Export Controls Key to Battling Counterfeiters

<http://www.nationaldefensemagazine.org/archive/2016/March/Pages/E-WasteExportControlsKeytoBattlingCounterfeiters.aspx>

Electronic Waste Rules Could Help Thwart Flow of Counterfeit Parts

<http://www.nationaldefensemagazine.org/archive/2015/February/pages/ElectronicWasteRulesCouldHelpThwartFlowofCounterfeitParts.aspx>