

Edgar Filing: PEAK INTERNATIONAL LTD - Form 10-Q

PEAK INTERNATIONAL LTD  
Form 10-Q  
November 07, 2001

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM 10-Q

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 For the Quarter Ended September 30, 2001

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number 0-29332

PEAK INTERNATIONAL LIMITED  
(Exact Name of Registrant as Specified in its Charter)

Incorporated in Bermuda with limited liability  
(State or other jurisdiction of incorporation or organization) None  
(I.R.S. Employer Identification Number)

44091 Nobel Drive, P.O. Box 1767, Fremont, California 94538  
(Address of principal executive offices) (Zip Code)

(510) 449-0100  
(Registrant's telephone number)

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes  No

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of October 31, 2001.

Class	Outstanding at October 31, 2001
Common Stock, \$0.01 Par Value	12,786,002

2

PART I  
FINANCIAL INFORMATION

Item 1. Financial Statements

Consolidated Statements of Operations  
(in thousands of United States Dollars, except per share data)

Edgar Filing: PEAK INTERNATIONAL LTD - Form 10-Q

	Three Months Ended September 30,	
	2001	2000
	(Unaudited)	(Unaudited)
Net Sales:		
- Third parties .....	\$ 9,635	\$ 22,324
- Related companies .....	462	2,191
	-----	-----
	10,097	24,515
Cost of Goods Sold .....	9,861	13,619
	-----	-----
Gross Profit .....	236	10,896
General and Administrative .....	2,362	2,558
Research and Development .....	44	27
Selling and Marketing .....	1,863	2,435
	-----	-----
Operating (Loss) Income .....	(4,033)	5,876
Other (Expenses) Income - net .....	(6)	(11)
Interest Income .....	214	393
	-----	-----
(Loss) Income Before Tax .....	(3,825)	6,258
Taxation .....	(12)	506
	-----	-----
NET (LOSS) INCOME .....	\$ (3,813)	\$ 5,752
	=====	=====
(LOSS) EARNINGS PER SHARE		
- Basic .....	\$ (0.30)	\$ 0.42
- Diluted .....	\$ (0.30)	\$ 0.41
Weighted Average Number of Shares		
- Basic .....	12,898	13,765
- Diluted .....	12,898	14,051

3

	Six Months Ended September 30,	
	2001	2000
	(Unaudited)	(Unaudited)
Net Sales:		
- Third parties .....	\$ 20,372	\$ 42,707
- Related companies .....	1,120	4,106
	-----	-----
	21,492	46,813
Cost of Goods Sold .....	19,017	26,220
	-----	-----
Gross Profit .....	2,475	20,593

Edgar Filing: PEAK INTERNATIONAL LTD - Form 10-Q

General and Administrative .....	4,885	5,521
Research and Development .....	96	56
Selling and Marketing .....	3,994	4,838
	-----	-----
Operating (Loss) Income .....	(6,500)	10,178
Other (Expenses) Income - net .....	(98)	76
Interest Income .....	504	669
	-----	-----
(Loss) Income Before Tax .....	(6,094)	10,923
Taxation .....	(90)	907
	-----	-----
NET (LOSS) INCOME .....	\$ (6,004)	\$ 10,016
	=====	=====
(LOSS) EARNINGS PER SHARE		
- Basic .....	\$ (0.46)	\$ 0.73
- Diluted .....	\$ (0.46)	\$ 0.71
Weighted Average Number of Shares		
- Basic .....	13,127	13,754
- Diluted .....	13,127	14,074

4

Consolidated Balance Sheets  
(in thousands of United States Dollars)

	September 30, 2001	March 31, 2001
	-----	-----
	(Unaudited)	
ASSETS		
Current Assets:		
Cash and cash equivalents .....	\$ 28,765	\$
Accounts receivable - net of allowance for doubtful accounts of \$294 at September 30, 2001 and \$344 at March 31, 2001 .....	7,105	
Inventories - net (Note 2) .....	14,210	
Other receivables, deposits and prepayments .....	1,196	
Income tax receivable .....	151	
Amounts due from related companies .....	364	
	-----	-----
Total Current Assets	51,791	
	-----	-----
Deposits for Acquisition of Plant and Equipment .....	62	
Property, Plant and Equipment - net .....	54,352	
	-----	-----
TOTAL .....	\$ 106,205	\$
	=====	=====
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current Liabilities:		
Accounts payable:		
- Trade .....	\$ 2,026	\$
- Property, plant and equipment .....	691	
Accrued payroll and employee benefits .....	1,016	
Accrued other expenses .....	1,624	
Income taxes payable .....	5,047	

Edgar Filing: PEAK INTERNATIONAL LTD - Form 10-Q

Total Current Liabilities .....	10,404	
Deferred Income Taxes .....	2,333	
Total Liabilities .....	12,737	
Commitments and Contingencies (Note 8)		
Stockholders' Equity:		
Share capital .....	128	
Additional paid-in capital .....	28,729	
Retained earnings .....	65,700	
Accumulated other comprehensive loss .....	(1,089)	
Total stockholders' equity .....	93,468	
TOTAL .....	\$ 106,205	\$

5

Consolidated Statements of Cash Flows  
(in thousands of United States Dollars)

	Six Months Ended September 30,	
	2001	2000
	(Unaudited)	(Unaudited)
Operating activities:		
Net (loss) income: .....	\$ (6,004)	\$
Adjustments to reconcile net (loss) income to net cash provided by operating activities:		
Depreciation and amortization .....	3,064	
Deferred income taxes .....	(37)	
Loss (Gain) on disposal/write-off of property, plant and equipment .....	39	
Allowance for doubtful accounts .....	(37)	
Changes in operating assets and liabilities:		
Accounts receivable .....	2,280	
Inventories .....	2,117	
Other receivables, deposits and prepayments .....	18	
Income tax receivable .....	(4)	
Accounts payable-trade .....	(718)	
Accrued payroll and other expenses .....	445	
Amounts due from/to related companies .....	225	
Income tax payable .....	(41)	
Net cash provided by operating activities .....	1,347	
Investing activities:		
Proceeds on sale of property, plant and equipment .....	-	

## Edgar Filing: PEAK INTERNATIONAL LTD - Form 10-Q

Acquisition of property, plant and equipment .....	(1,130)	
Decrease (Increase) in deposits for acquisition of property, plant and equipment .....	53	
	-----	-----
Net cash used in investing activities .....	(1,077)	
	-----	-----
Financing activities:		
Payment for TrENDS .....	(3,080)	
Payment for share buyback .....	(2,663)	
Proceeds from issue of common stock .....	240	
	-----	-----
Net cash (used in) provided by financing activities .	(5,503)	
	-----	-----
Net (decrease) increase in cash and cash equivalents .....	(5,233)	
Cash and cash equivalents at beginning of period .....	33,901	
Effects of exchange rate changes on cash .....	97	
	-----	-----
Cash and cash equivalents at end of period .....	\$ 28,765	\$
	=====	=====
Supplemental cash flow information:		
Cash paid during the period		
Interest .....	\$ -	\$
Income taxes .....	4	
	=====	=====

6

### Notes to Consolidated Financial Statements (in thousands of United States Dollars, except share data)

#### (1) Organization and basis of presentation

Peak International Limited (the "Company") was incorporated as an exempted company with limited liability in Bermuda under the Companies Act 1981 of Bermuda (as amended) on January 3, 1997. The subsidiaries of the Company are principally engaged in the manufacture and sale of precision engineered packaging products, such as matrix trays, shipping tubes, reels and carrier tape, leadframe boxes and interleaves used in the storage and transportation of semiconductor devices and other electronic components. The Company's principal production facilities are located in the People's Republic of China (the "PRC") and the Company maintains sales offices in Hong Kong, the United States of America, Singapore, Malaysia, Taiwan and the Philippines.

The consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America and include the accounts of the Company and its subsidiaries. All significant intra-group balances and transactions have been eliminated on consolidation.

The preparation of financial statements in conformity with generally accepted accounting principles requires the use of estimates and assumptions that affect reported amounts of certain assets, liabilities, revenues and expenses as of and for the reporting periods. Actual results could differ from those estimates. Differences from those estimates are reported in the period they become known.

The unaudited consolidated financial statements reflect all adjustments (including normal recurring adjustments) which in the opinion of management are required for a fair presentation of the Company's interim results. The results for interim periods are not necessarily indicative of the results that may be

Edgar Filing: PEAK INTERNATIONAL LTD - Form 10-Q

achieved in the entire year.

(2) Inventories

	September 30, 2001 ----- (Unaudited)	March 31, 2001 -----
Raw materials .....	\$ 8,415	\$ 8,589
Finished goods .....	5,795	7,738
	-----	-----
	\$ 14,210	\$ 16,327
	=====	=====

(3) Statement of Comprehensive Income

	Three Months Ended September 30,	
	2001 ----- (Unaudited)	2000 ----- (Unaudited)
Net (Loss) Income .....	\$ (3,813)	\$ 5,752
Foreign currency translation adjustment .....	7	(2)
	-----	-----
Comprehensive (Loss) Income .....	\$ (3,806)	\$ 5,750
	=====	=====

7

	Six Months Ended September 30,	
	2001 ----- (Unaudited)	2000 ----- (Unaudited)
Net (Loss) Income .....	\$ (6,004)	\$ 10,016
Foreign currency translation adjustment .....	97	(2)
	-----	-----
Comprehensive (Loss) Income .....	\$ (5,907)	\$ 10,014
	=====	=====

(4) Stock Options

Option activity relating to the Company's stock option plan is summarized as follows (unaudited):

Edgar Filing: PEAK INTERNATIONAL LTD - Form 10-Q

	Outstanding Options	
	Number of Shares	Weighted average exercise price per share
Outstanding at April 1, 2001 .....	2,498,593	\$ 7.67
Exercised .....	(2,083)	5.38
Forfeited .....	(73,149)	8.09
Outstanding at June 30, 2001 .....	2,423,361	7.66
Granted .....	380,868	6.21
Exercised .....	(2,906)	4.15
Forfeited .....	(38,610)	7.95
Outstanding at September 30, 2001 .....	2,762,713	7.46

(5) (Loss) Earnings Per Share

The following is a reconciliation of the numerator and the denominators of the basic and diluted (loss) earnings per share:

	Three Months Ended September 30,	
	2001 (Unaudited)	2000 (Unaudited)
Net (Loss) Income (numerator) .....	\$ (3,813)	\$ 5,752
Shares - Weighted average (denominator)		
Basic .....	12,898	13,765
Options .....	-	286
Diluted .....	12,898	14,051

	Six Months Ended September 30,	
	2001	2000

## Edgar Filing: PEAK INTERNATIONAL LTD - Form 10-Q

	(Unaudited)	(Unaudited)
Net (Loss) Income (numerator) .....	\$ (6,004)	\$ 10,016
	-----	-----
Shares - Weighted average (denominator)		
Basic .....	13,127	13,754
Options .....	-	320
	-----	-----
Diluted .....	13,127	14,074
	-----	-----

(6) Employee Stock Purchase and Option Plans

During the quarter ended September 30, 2001, the Company issued 15,084 shares at \$5.151 to employees under the 1998 Employee Stock Purchase Plan.

(7) Share Repurchase

The Board of Directors of the Company has authorized the repurchase by the Company of up to \$10,000,000 of its common stock at prices not to exceed 150% of the Company's net asset value per share. In the quarter ended September 30, 2001 and June 30, 2001, the Company repurchased 212,698 and 194,668 shares at an average price of \$6.33 and \$6.76 respectively. In addition, pursuant to authority granted by Board of Directors, the Company purchased 473,876 units of Trust Enhanced Dividend Securities of Peak TrENDS Trust ("TrENDS") at an average price of \$6.50 per TrENDS through a tender offer. In May 2001, the shares obtained as a result of the automatic conversion of TrENDS into common shares were cancelled. The Company engaged Tucker Anthony & Sutro for the repurchase activities in the September 30, 2001 and June 30, 2001 quarters.

(8) Commitments and Contingencies

(a) Litigation

On June 29, 1999, Dorchester Investors commenced a purported securities class action suit in the United States District Court for the Southern District of New York on behalf of all TrENDS purchasers against the Company, the Peak TrENDS Trust ("the Trust"), Mr. T.L. Li, Mr. Jerry Mo, Luckygold 18A Limited ("Luckygold") and Donaldson, Lufkin & Jenrette Securities Corporation ("DLJ"). On June 5, 2000, the court dismissed the Company and Mr. Mo from the class action.

However, the Company has indemnity obligations to DLJ and the Trust (the "primary indemnity") against loss in connection with the TrENDS offering. The exposure of this indemnity may ultimately have material impact to the financial statements of the Company. Mr. T.L. Li and Luckygold have, on the other hand, provided a separate indemnity to the Company from liabilities (the "counter indemnity") related to the TrENDS offering, including the exposure in relation to the indemnity obligations provided to DLJ and the Trust. The counter indemnity may partially, or even fully, cover the primary indemnity provided by the Company to certain defendants.

As of this date, the outcome of the class action and hence the effect of the primary and counter indemnity, is still contingent. The Company considers that it is not possible to reasonably estimate with any certainty



## Edgar Filing: PEAK INTERNATIONAL LTD - Form 10-Q

the potential damages, if any, arising from this litigation. The Company has therefore not made any provision in the financial statements in this respect.

The Company is also involved in an arbitration with Mr. Richard Brook, a former Chief Executive Officer. The result of the arbitration was a judgment in the amount of approximately \$520,000 in favor of the Company against Mr. Brook. However, Mr. Brook challenged the arbitration award in the Federal Court in Texas, which vacated the arbitrator's award on the grounds that the arbitrator was not selected in accordance with the terms of the contract between the parties. The Company has appealed the decision to the Fifth Circuit Court of Appeals. At present, the outcome of this matter cannot be predicted with reasonable particularity and no impact to the financial statements has been reflected in this respect.

### (b) Commitments

At September 30, 2001, the Company had no outstanding foreign currency exchange contracts. At September 30, 2001, the Company had commitments for capital expenditures of \$2.1 million.

### (9) Segmental Information

	Hong Kong & the PRC -----	United States -----	Other Asian countries -----	Eliminat -----
Quarter ended Sept. 30, 2001 (unaudited)				
Net sales to third parties	\$ 5,072	\$ 755	\$ 3,808	
Net sales to related companies	462	-	-	
Transfer between geographic areas	3,869	7	486	\$ (4,3
	-----	-----	-----	-----
Total net sales	\$ 9,403	\$ 762	\$ 4,294	\$ (4,3
	-----	-----	-----	-----
(Loss) Income before tax	\$ (2,434)	\$ (1,414)	\$ (439)	\$ 4
	=====	=====	=====	=====
Quarter ended Sept. 30, 2000 (unaudited)				
Net sales to third parties	\$ 14,318	\$ 3,107	\$ 4,899	
Net sales to related companies	2,191	-	-	
Transfer between geographic areas	7,215	-	256	\$ (7,4
	-----	-----	-----	-----
Total net sales	\$ 23,724	\$ 3,107	\$ 5,155	\$ (7,4
	-----	-----	-----	-----
Income (Loss) before tax	\$ 6,180	\$ 116	\$ 24	\$ (
	=====	=====	=====	=====
Six months ended Sept. 30, 2001 (unaudited)				
Net sales to third parties	\$ 12,164	\$ 1,975	\$ 6,233	
Net sales to related companies	1,120	-	-	
Transfer between geographic areas	7,546	7	848	\$ (8,4
	-----	-----	-----	-----
Total net sales	\$ 20,830	\$ 1,982	\$ 7,081	\$ (8,4
	-----	-----	-----	-----
(Loss) Income before tax	\$ (3,554)	\$ (2,046)	\$ (910)	\$ 4
	=====	=====	=====	=====
Six months ended Sept. 30, 2000 (unaudited)				
Net sales to third parties	\$ 27,436	\$ 6,092	\$ 9,179	
Net sales to related companies	4,106	-	-	

## Edgar Filing: PEAK INTERNATIONAL LTD - Form 10-Q

Transfer between geographic areas	13,778	-	610	\$ (14,3
	-----	-----	-----	-----
Total net sales	\$ 45,320	\$ 6,092	\$ 9,789	\$ (14,3
	-----	-----	-----	-----
Income (Loss) before tax	\$ 10,997	\$ (206)	\$ 85	\$
	=====	=====	=====	=====

10

### Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

#### General

The following discussion and analysis of financial condition and results of operations is based upon and should be read in conjunction with the consolidated financial statements of the Company and notes thereto included in this Report and the Registrant's Annual Report on Form 10-K for the year ended March 31, 2001.

#### Forward-Looking Statements

Management's discussion and analysis of financial condition and results of operations and other sections of this Report contain "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. We intend for the forward-looking statements to be covered by the safe harbor provisions for forward-looking statements in these sections. All statements regarding the Company's expected financial position, business and financing plans are forward-looking statements. Such forward-looking statements are identified by use of forward-looking words such as "anticipates," "believes," "plans," "estimates," "expects," and "intends" or words or phrases of similar expression. These forward-looking statements are subject to various assumptions, risks and uncertainties, including but not limited to, changes in political and economic conditions, demand for the Company's products, acceptance of new products, technology developments affecting the Company's products and to those discussed in the Company's filings with the Securities and Exchange Commission. Accordingly, actual results could differ materially from those contemplated by the forward-looking statements.

#### Results of Operations

**Net Sales.** Net sales decreased by 58.8% to \$10.1 million in Fiscal 2Q 2002 from \$24.5 million in Fiscal 2Q 2001. Net sales of trays decreased by 63.0% over the period reflecting a 51.0% decrease in sales volume, and a 24.6% drop in average realized sales price. Net sales of carrier tape decreased by 65.0% over the period, driven by a 54.9% decrease in sales volume, and a 22.4% drop in average realized sales price. Net sales for tubes decreased by 64.4% over the period. Sales volume for tubes decreased by 65.5%, the average realized sales price of tubes increased 3.3% over the same period. The decrease in revenue reflected the significant down-turn in the business environment of the semiconductor industry. Disk drive trays made up 7.2% of our revenue for the quarter.

**Gross Profit.** Gross profit decreased by 97.8% to \$236,000 in Fiscal 2Q 2002 from \$10.9 million in Fiscal 2Q 2001. Our gross margin dropped to 2.3% in Fiscal 2Q 2002 from 44.5% in Fiscal 2Q 2001. The drop in gross margin compared to last year and the prior quarter was mainly the results of the drop in business volume

## Edgar Filing: PEAK INTERNATIONAL LTD - Form 10-Q

as well as the average realized sales price of our products over the period. Also there were significant write-downs in the quarter under consideration totaling \$1.4 million in relation to excessive/obsolete inventory and unutilized plant capacity.

**Income from Operations.** Operating income decreased by 168.6% to an operating loss of \$4.0 million in Fiscal 2Q 2002 from an operating profit of \$5.9 million in Fiscal 2Q 2001. Our operating margin dropped from 24.0% to -39.9%.

**General and Administrative Expenses.** General and administrative expenses decreased by 7.7% to \$2.4 million in Fiscal 2Q 2002 from \$2.6 million in Fiscal 2Q 2001 was mainly due to the cost savings resulted from downsizing being offset by higher professional fees as a result of a late bill from the repurchase of the TrENDS.

11

**Selling and Marketing Expenses.** Selling and marketing expenses decreased by 23.5% to \$1.9 million in Fiscal 2Q 2002 from \$2.4 million in Fiscal 2Q 2001, primarily as a result of the reduction in freight charges, traveling expenses and agency commissions as a result of the drop in business.

**Other income/expense.** This represents primarily the difference in realized and unrealized exchange losses that the Company recorded during the period. An exchange loss of \$6,000 was recorded during the quarter against an exchange loss of \$11,000 last year.

**Interest Income.** For the quarter under consideration interest income decreased over that for the comparable period last year mainly as a result of the reduction in both the bank deposit balance and interest rates.

**Net Income.** The Company had a net loss of \$3.8 million for fiscal 2Q 2002, compared to net income of \$5.8 million for the same fiscal quarter of 2001, reflecting the effects of the foregoing factors.

**EPS.** Fully Diluted EPS for the quarter was -30 cents, compared with 41 cents for the same period last year and -16 cents for the prior quarter.

### Liquidity and Capital Resources

Our net cash provided by operating activities was \$541,000 for the three months ended September 30, 2001, compared to \$8.2 million for the three months ended September 30, 2000. In Fiscal 2Q 2002, a total of \$1.3 million was used for the repurchase of the Company's common stock. We incurred capital expenditures of \$0.4 million for the acquisition of new equipment in our current facility during the three months ended September 30, 2001, compared with \$3.2 million for the same period last year. As of September 30, 2001, we had commitments for capital expenditures of \$2.1 million.

### Item 3. Quantitative and Qualitative Disclosures about Market Risk

#### PVC Resin Price

PVC resin, the principal raw material used in the manufacture of tubes, together with additives used in the manufacture of tubes accounted for 8.0% of our total raw material costs for the three months ended September 30, 2001. While we believe, principally as a result of increased production capacity by suppliers, that a severe shortage in the supply of PVC resin is unlikely to

## Edgar Filing: PEAK INTERNATIONAL LTD - Form 10-Q

occur in the foreseeable future, there can be no assurance that such shortage will not occur. Any price increases would result in higher costs, which could have a material adverse effect on our results of operations and financial condition. We currently maintain approximately two to three months' stock of PVC resin and other raw materials used in our production processes, and increase such stock when we believe prices are favorable. We do not, and do not intend to, enter into future contracts or use any financial instruments to hedge our exposure to fluctuations in the price of PVC resin or other raw materials used in our production processes.

### Currency Exchange Rate Fluctuations

Our sales are denominated primarily in US Dollars while our costs of goods sold are generally incurred in US Dollars, Hong Kong Dollars and Renminbi, and our operating expenses are generally denominated in Renminbi, Hong Kong Dollars and US Dollars. In addition, a substantial portion of our capital expenditures, primarily for the purchase of equipment, has been and is expected to continue to be denominated in US Dollars and Japanese Yen. Consequently, a portion of our costs and operating

12

margins may be affected by fluctuations in exchange rates, primarily between the US Dollar and other currencies. Our results of operations and financial condition could be adversely affected by fluctuations in currency exchange rates or the imposition of new or additional currency controls in the jurisdictions in which we operate. Primarily in response to recent developments in the Southeast Asian currency markets, from time to time, we engage in derivatives trading activities, such as entering into forward contracts, to hedge our currency exchange exposure. The Company does not utilize market-risk sensitive instruments for speculative purposes. At September 30, 2001, we had no outstanding foreign currency exchange contracts.

13

## PART II OTHER INFORMATION

### Item 1. Legal Proceedings

On or about July 2, 1999, the Company received an Amended and Restated Demand for Arbitration filed on behalf of the Company's former Chief Executive Officer, Richard Brook. Mr. Brook sought payment of US\$32,400 per month or a lump sum payment of US\$1,036,800 pursuant to his employment agreement with the Company, which was terminated on or about December 1, 1998. Mr. Brook also asserted various tort claims for damages against the Company. The Company opposed Mr. Brook's claim and asserted counterclaims against Mr. Brook for breach of contract, libel and breach of fiduciary duty. Mr. Brook's claims against the Company were tried before an arbitrator in June 2000. On August 4, 2000, a decision was rendered in the arbitration. The arbitrator denied the bulk of Mr. Brook's breach of contract claim, finding that the Company was justified in terminating him for cause. However, the arbitrator found that Mr. Brook's termination for cause was not effective until May 1999 and that Mr. Brook was entitled to certain additional compensation of approximately \$70,000. The arbitrator denied all of Mr. Brook's tort claims. On the Company's breach of contract counterclaim, the arbitrator found Mr. Brook liable for over \$400,000 in actual damages and \$100,000 in exemplary damages. The award of exemplary

## Edgar Filing: PEAK INTERNATIONAL LTD - Form 10-Q

damages was based on a finding that Brook acted with malice toward the Company. The arbitrator denied the Company's defamation claim and did not specifically address the Company's breach of fiduciary duty claim, which had previously been bifurcated. The arbitrator then awarded certain attorney's fees to each party. The net result of the arbitration was a judgment in the amount of approximately \$520,000 in favor of the Company and against Mr. Brook. Mr. Brook challenged the arbitration award in United States District Court in Austin, Texas, which vacated the arbitrator's award on the grounds that the arbitrator was not selected in accordance with the terms of the contract between the parties. The Company has appealed the District Court's action to the United States Court of Appeals for the Fifth Circuit. At present, we cannot predict the outcome of this matter with reasonable particularity.

On June 29, 1999, plaintiff Dorchester Investors commenced a purported securities class action suit in the United States District Court for the Southern District of New York on behalf of all TrENDS purchasers against the Company, the Peak TrENDS Trust ("the Trust"), Mr. T.L. Li, Mr. Jerry Mo, Luckygold 18A Limited ("Luckygold") and Donaldson, Lufkin & Jenrette Securities Corporation ("DLJ"). On January 27, 2000, the plaintiff filed an amended complaint. On March 20, 2000, all defendants moved to dismiss the amended complaint. While those motions were pending, plaintiff and defendants stipulated to the dismissal with prejudice from the action of the Company and Mr. Mo. Pursuant to the stipulation, the court dismissed the Company and Mr. Mo from the action with prejudice on June 5, 2000. On March 28, 2001, the court ruled on the motion to dismiss. The court dismissed a significant number of the claims. The principal remaining claims relate to the alleged failure of the TrENDS prospectus to disclose that significant short selling of the Company's common stock was certain to occur at the time of the TrENDS offering.

Plaintiff filed an amended complaint on April 13, 2001. This case is still in its preliminary stages. Accordingly, we cannot predict the outcome of this matter with reasonable particularity.

Additionally, the Company, Mr. Li and Luckygold entered into certain indemnification agreements with the Trust and DLJ in connection with the TrENDS offering. Certain of these indemnification agreements may require that under certain circumstances the Company, Luckygold and/or Mr. Li indemnify the Trust and/or DLJ from certain liabilities that the Trust and/or DLJ may incur to plaintiff or to the purported plaintiff class. Mr. T.L. Li and Luckygold have, in turn, provided a deed of

14

indemnity to the Company pursuant to which Mr. Li and Luckygold have agreed to indemnify the Company from liabilities related to the TrENDS offering.

R.H. Murphy Co., Inc. ("Murphy") is the owner of U.S. Reexamined Patent 5,400,904 C1 and certain related foreign patents, which patents are directed to specific features in trays used to carry integrated circuits. Murphy has notified Peak and certain of Peak's customers that it believes these patents are infringed by certain integrated circuit trays that Peak provides to its customers, and indicated that licenses to these patents are available. Peak does not believe that any valid claim of these patents is infringed, and is proceeding consistent with that belief.

Item 2. Changes in Securities and Use of Proceeds

Not applicable.

Item 3. Defaults Upon Senior Securities

## Edgar Filing: PEAK INTERNATIONAL LTD - Form 10-Q

Not applicable.

### Item 4. Submission of Matters to a Vote of Security Holders

At the Annual Meeting of Shareholders held on October 10, 2001, the following proposals were adopted by the margins indicated:

1. To elect a Board of Directors to hold office until their successors are elected and qualified.

Name of Director -----	Number of Shares -----	
	For	Withheld
Calvin Reed	6,755,101	18,704
Jack Menache	6,755,101	18,704

The following directors continued their term of office as directors after the Annual Meeting: Douglas Broyles, Christine Russell, and William Snyder.

2. To authorize the Board of Directors to fix the remuneration for the directors with respect to their services to the Company as directors.

For	6,580,799
Against	165,505
Abstain	27,500
Broker Non-Votes	0

3. To receive the financial statements and the reports of the directors and the independent auditors of the Company for the financial year ended March 31, 2001.

For	6,758,201
Against	13,703
Abstain	1,900
Broker Non-Votes	0

15

4. To approve the appointment of the firm of Arthur Andersen & Co. as independent auditors for the Company for the financial year ending March 31, 2002.

For	6,758,301
Against	14,703
Abstain	800
Broker Non-Votes	0

5. To authorize the Board of Directors to fix the remuneration for the Company's independent auditors for Fiscal 2002.

For	5,824,951
Against	941,203
Abstain	7,650
Broker Non-Votes	0

6. To approve an increase in the number of Shares reserved for issuance

## Edgar Filing: PEAK INTERNATIONAL LTD - Form 10-Q

under the Company's 2000 Employee Stock Purchase Plan from 200,000 to 400,000.

For	6,676,039
Against	67,965
Abstain	29,800
Broker Non-Votes	0

### Item 5. Other Information

The Board of Directors of the Company has authorized the repurchase by the Company of up to \$10,000,000 of its common stock at prices not to exceed 150% of the Company's net asset value per share. In the quarters ended September 30, 2001 and June 30, 2001, the Company repurchased 212,698 and 194,668 shares at an average price of \$6.33 and \$6.76 respectively. In addition, pursuant to authority granted by Board of Directors, the Company purchased 473,876 units of Trust Enhanced Dividend Securities of Peak TrENDS Trust ("TrENDS") at an average price of \$6.50 per TrENDS through a tender offer. In May 2001, the shares obtained as a result of the automatic conversion of TrENDS into common shares were cancelled. The Company engaged Tucker Anthony & Sutro for the repurchase activities in the September 30, 2001 and June 30, 2001 quarters.

16

### Item 6. Exhibits and Reports on Form 8-K

#### a. Exhibits

- 3.1(a) Memorandum of Association and By-Laws of the Registrant (incorporated by reference to Exhibit 3.1 to the Company's Registration Statement on Form F-1, Registration No. 333-6652, filed on March 19, 1997 and declared effective by the Commission on June 20, 1997 (the "Company's Initial Public Offering Registration Statement on Form F-1"))
- 3.1(b) Bye-laws of the Registrant (incorporated by reference to Exhibit 3.1(b) of the Company's Annual Report on Form 10-K for the year ended March 31, 2001)
- 4.1 Specimen of Share Certificate for the Shares of the Registrant (incorporated by reference to Exhibit 4.1 to the Company's Amendment No. 1 to the Company's Initial Public Offering Registration Statement on Form F-1)
- 10.1 Processing Agreement dated May 28, 1987 and renewed and amended on May 24, 1994 and December 12, 1996 (incorporated by reference to Exhibit 10.1 to the Company's Initial Public Offering Registration Statement on Form F-1)
- 10.2 Processing Agreement dated October 8, 1995 (incorporated by reference to Exhibit 10.2 to the Company's Initial Public Offering Registration Statement on Form F-1)
- 10.3 Land Use Certificate relating to the Company's existing production facilities (incorporated by reference to Exhibit 10.3 to the Company's Initial

## Edgar Filing: PEAK INTERNATIONAL LTD - Form 10-Q

Public Offering Registration Statement on Form F-1)

- 10.4 Land Use Certificate relating to the Company's planned additional production facilities (incorporated by reference to Exhibit 10.4 to the Company's Initial Public Offering Registration Statement on Form F-1)
  - 10.5 Land Use Right Granting Contract relating to the Company's existing production facilities (incorporated by reference to Exhibit 10.5 to the Company's Initial Public Offering Registration Statement on Form F-1)
  - 10.6 Land Use Right Granting Contract relating to the Company's planned additional production facilities (incorporated by reference to Exhibit 10.6 to the Company's Initial Public Offering Registration Statement on Form F-1)
  - 10.7 Lease between Warden and Peak (HK) relating to the Company's existing production facilities incorporated by reference to Exhibit 10.7 to the Company's Initial Public Offering Registration Statement on Form F-1)
  - 10.8 Lease between Warden and Peak (HK) relating to the Company's existing production facilities (incorporated by reference to Exhibit 10.8 of the Company's Annual Report on Form 10-K for the years ended March 31, 2001)
- 17
- 10.9 1998 Share Option Plan (incorporated by reference to Exhibit 4.3 to the Company's Form S-8 filed on July 30, 1998)
  - 10.10 Deed of Undertaking by T.L. Li dated May 29, 1997 relating to non-competition and referral incorporated by reference to Exhibit 10.9 to the Company's Initial Public Offering Registration Statement on Form F-1)
  - 10.11 Option Agreement dated February 17, 1997 relating to the non-voting deferred shares of Peak (HK) (incorporated by reference to Exhibit 10.10 to the Company's Initial Public Offering Registration Statement on Form F-1)
  - 10.12 Restructuring Agreement dated February 28, 1997 for the acquisition of the entire issued share capital of Peakgold and Success Gold (incorporated by reference to Exhibit 10.11 to the Company's Initial Public Offering Registration Statement on Form F-1)
  - 10.13 2000 Peak International Limited Employee Stock Purchase Plan (incorporated by reference to Exhibit 10.12 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2000)
  - 10.14 Letter Agreement dated November 1, 2001 for the



Edgar Filing: PEAK INTERNATIONAL LTD - Form 10-Q

hiring of FPDSavills (Hong Kong) Limited as agent for disposal of Peak's industrial development in Shenzhen, PRC

b. Reports on Form 8-K.

The Company filed a current report on Form 8-K on October 11, 2001 regarding a change in the Company's independent auditors.

18

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

PEAK INTERNATIONAL LIMITED

Date: November 7, 2001                      By     /s/ Calvin Reed  
-----  
Calvin Reed  
President and Chief Executive Officer

Date: November 7, 2001                      By     /s/ Jerry Mo  
-----  
Jerry Mo  
Chief Financial Officer