"SHAP" TALK
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The Importer Security Filing (10+2) full enforcement will take effect on January 26, 2010. U.S. Customs can assess liquidated damages up to $5000.00 for violations, such as failure to submit ISF timely, accurately, or completely.

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WE WANT TO HEAR FROM YOU!

TRADE NEWS

Importer Security Filing Bond Requirements

Effective January 26, 2010, all Importer Security Filing (ISF, also known as 10+2) importers must have a bond as security for the ISF filing. The ISF importer is wholly responsible for the ISF. Customs can assess liquidated damages up to $5,000 per ISF filing for a late, incomplete, or inaccurate ISF, with a cap of $10,000. The bond obligation commences 24 hours prior to vessel departure and terminates when goods enter the first port of arrival, if there is no violation. Customs has 6 years to assess a liquidated damages claim, but most penalties will be issued within one year.

If the importer has a continuous bond, there is nothing extra that needs to be done. The continuous bond will cover the ISF. At this time, Customs and the surety companies are not requiring extra bond coverage for ISF. Because of potential ISF violations, we are recommending that *all* importers get a continuous bond.

If a single entry bond (SEB) is required for entry, a *separate* single entry bond will be required for the ISF (for stand-alone ISF filings; 97% of ISF filings are stand-alone). The ISF SEB will be for $10,000, which is the maximum penalty that can be imposed for a late, incomplete, or inaccurate ISF. The ISF SEB must be created before the ISF transmission as the bond reference number must be sent with the ISF. Once the ISF transaction number is received, it must be entered on the ISF SEB in 12 point font on the ISF SEB and e-mailed as a pdf file to Customs at ISF_Bond@cbp.dhs.gov within 12 hours.

SEB's are used for importers with one time or very infrequent shipments. These importers are likely to be unaware of ISF requirements (unless they've been following Shap Talk!). Chances are great that documents could be received well after sailing, which will be an automatic ISF violation with a potential penalty for late filing. If there is a known violation, the surety company is going to require collateral for the ISF SEB in the amount of $5,000 to $10,000. The collateral will be held until all liability is exhausted, possibly up to six years.

How can you avoid this? G*et a continuous bond!* Even if you have a one time shipment, *a continuous bond will be cheaper than posting collateral*. Bear in mind that it takes two weeks (10 business days) to place a continuous bond, so act now to beat the January 26th full enforcement date. You can minimize your penalty exposure with a continuous bond which will cover both the ISF as well as the Customs entry. A continuous bond will also expedite the entry and ISF process.

Please contact us at compliance@shapiro.com for more information on obtaining a continuous bond.

U.S. International Trade Commission Issues Report on Use of First Sale Rule

On December 23, 2009 the U.S. International Trade Commission (USITC) issued its report to Congress on the use of the First Sale Rule for Customs valuation of U.S. imports as mandated by the Food, Conversation, and Energy Act of 2008.

U.S. Customs & Border Protection (CBP) originally proposed a new interpretation of transaction value which based the value of imported goods on the last sale before entry into the U.S., or the price paid by the buyer in the U.S., vs. the first or earlier sale on multiple sale importations. See our March 2008 and September 2008 Shap Talk editions for previous articles on First Sale and the First Sale Declaration:
http://www.shapiro.com/docs/ShapTalk/ShapTalk71.pdf
http://www.shapiro.com/docs/ShapTalk/ShapTalk77.pdf

Due to widespread opposition to the proposal and as required by legislation, the USITC has provided data on the value and frequency of first sale transactions based on data collected by CBP for the 12 month period from September 1, 2008 to August 31, 2009.

The USITC report found that:

- The most frequent first sale users include textile, apparel, and footwear importers.
- Use of the First Sale Rule in relation to total imports reached its peak in March 2009 and was at its lowest in September 2008 at 3% and 1.8% respectively.
- First sale was not associated with high tariff duty rates only. Often the First Sale Rule was utilized on duty free importations accounting for 21% of all first sale imports. It was undetermined why the First Sale Rule was used in these instances. Although it is possible that importers may have declared a first sale on shipments where there was only one sale.
- Only 8.5% or 23,520 importers used the First Sale Rule.
- $38.5 billion in value or only 2.4% of all imports were entered using the First Sale Rule.
- It was determined that the transaction value method was used to value 86.4% of all imports at a value of $1.411 trillion. The First Sale Rule is only allowed to be utilized on shipments where the transaction value method of valuation is used. Transaction value is defined as the price actually paid or payable by a buyer plus any adjustments to the value such as commissions, packing, royalties, etc. 2.7% of those imports were valued using the First Sale Rule.
- The top first sale HTS chapters by value and share included machinery and computers of Chapter 84 at 15.5%, electrical machinery under Chapter 85 at 13.8%, apparel under Chapter 62 at 5.1%, knit apparel under chapter 61 at 4.9%, and mineral fuels under Chapter 27 at 4.1%.

In summary, a relatively small share of U.S. imports were valued under the First Sale Rule. As such, CBP may be inclined to push revocation of the rule. On the other hand, first sale use in specific sectors such as the textile industries suggests that the revocation of first sale may negatively impact those industries and their consumers. As a result Congress has ordered CBP to postpone any action on the First Sale Rule until at least January 1, 2011.

The USITC report can be viewed in its entirety by visiting the USITC website at: http://www.usitc.gov/publications/332/pub4121.pdf

U.S. Top Trading Partners

Have you ever wondered who the top trading partners with the U.S. are? The U.S. Census Bureau, Foreign Trade Division keeps these statistics and other interesting trade statistics. Without looking, would you have guessed our top trading partner? Look at the tables below from Census website for total trade in goods, export goods, and import goods for the top ten U.S. trading partners.

Total Trade (Goods)

Rank	Country	Exports (Year-to-Date)	Imports (Year-to-Date)	Total Trade (Year-to-Date)	Percent of Total Trade
---	**Total, All Countries**	**863.2**	**1,269.2**	**2,132.4**	**100.0%**
---	**Total, Top 15 Countries**	**601.1**	**929.9**	**1,531.0**	**71.8%**
1	Canada	167.9	183.5	351.5	16.5%
2	China	53.9	242.4	296.2	13.9%
3	Mexico	105.2	142.4	247.5	11.6%
4	Japan	42.0	76.7	118.8	5.6%
5	Federal Republic of Germany	35.7	57.5	93.2	4.4%
6	United Kingdom	38.2	39.1	77.3	3.6%
7	Korea, South	23.2	32.5	55.7	2.6%
8	France	22.0	28.1	50.1	2.4%
9	Netherlands	26.8	13.2	40.0	1.9%
10	Brazil	21.4	16.4	37.8	1.8%

Exports (Goods)

Rank	Country	Exports (Year-to-Date)	Percent of Total Exports
---	**Total, All Countries**	**863.2**	**100.0%**
---	**Total, Top 15 Countries**	**620.1**	**71.8%**
1	Canada	167.9	19.5%

2	Mexico	105.2	12.2%
3	China	53.9	6.2%
4	Japan	42.0	4.9%
5	United Kingdom	38.2	4.4%
6	Federal Republic of Germany	35.7	4.1%
7	Netherlands	26.8	3.1%
8	Korea, South	23.2	2.7%
9	France	22.0	2.6%
10	Brazil	21.4	2.5%

Imports (Goods)

Rank	Country	Imports (Year-to-Date)	Percent of Total Imports
---	**Total, All Countries**	**1,269.2**	**100.0%**
---	**Total, Top 15 Countries**	**948.0**	**74.7%**
1	China	242.4	19.1%
2	Canada	183.5	14.5%
3	Mexico	142.4	11.2%
4	Japan	76.7	6.0%
5	Federal Republic of Germany	57.5	4.5%
6	United Kingdom	39.1	3.1%
7	Korea, South	32.5	2.6%
8	France	28.1	2.2%
9	Ireland	24.1	1.9%
10	Venezuela	22.9	1.8%

You can view the latest list on the Census website at:
http://www.census.gov/foreign-trade/statistics/highlights/top/top0910yr.html
You can also get trade balances with specific countries going back to the 80's and specific commodity information from Census on the Foreign Trade website.

DHS Import Safety Targeting Center

The Department of Homeland Security (DHS) has announced the creation of the Import Safety Commercial Targeting and Analysis Center (CTAC). CTAC is located in Washington, DC and will be operated by U.S. Customs & Border Protection (CBP) to address import safety issues. CTAC will be a multi-agency effort with Immigration and

Customs Enforcement, the Consumer Product Safety Commission, the Food and Drug Administration, and the Food Safety Inspection Service. The goal of CTAC will be to protect the American public from harm caused by unsafe imported products by improving communication and information-sharing, and reducing redundant inspection activities.

The DHS press release is available at:
http://www.dhs.gov/ynews/releases/pr_1260296299666.shtm

BIS Proposed Rule for Issuance of Electronic Documents

The Bureau of Industry and Security (BIS) is proposing to eliminate the use of most paper documents that it sends out to requesting parties. The documents that would be affected by this proposed rule are: Export and reexport licenses, notices of denial of license applications, notices of return of a license application without action, classification results, License Exception AGR notification results and encryption review request results. This proposed rule would modify the Export Administration Regulations (EAR) to implement those changes and would also make changes to the recordkeeping requirements associated with the elimination of paper documents. BIS is proposing to make these changes to reduce mailing costs and to free up staff time currently devoted to mailing these documents for use in other tasks.

Comments on this proposed rule must be received by BIS no later than February 2, 2010. For further information, please contact Thomas Andrukonis, Office of Exporter Services, Bureau of Industry and Security, U.S. Department of Commerce at 202 482 6393 or via e-mail at tandrukoi@bis.doc.gov.

The Federal Register notice dated 12/4/2009 is located on BIS website at: http://www.bis.doc.gov/news/2009/fr_12042009.pdf

TRANSPORTATION UPDATE

January 2010 Update

Space Availability from Asia to the U.S. has been reduced by 20% in the 4th Quarter of 2009. The "Grand Alliance" carriers (Hapag Lloyd, Yang Ming, Hanjin) have announced another 50% reduction in capacity in this same market by May 1, 2010. This is going to cause the forces of supply/demand to take hold on the market to justify the Emergency Revenue Charge (ERC) planned by all carriers from Asia to the U.S. effective January 15, 2010. The majority of the carriers announced the ERC to be $320/20', $400/40', $450/40'HC. On May 1, 2010, the majority of carriers in the Asia to U.S. trade will have announced increases of $800/40' to U.S. West Coast/Inland locations and $1000/40' to U.S. East Coast ports. Carriers also announced that we should expect an additional $400/40' Peak Season Surcharge effective August 1, 2010. Samuel Shapiro & Company, Inc. is working with the carriers and our agents to try to minimize the GRI for our customers, but it currently seems unlikely that the ERC will be lowered or waived, even for the very largest importer contracts.

The next few months will be critical for the carriers as they demonstrate their desire to stop the bleeding and to prevent bankruptcies in an industry that has collectively lost $20 billion in 2009. At the same time, the carriers' customers have to cope with the elimination of services and port calls which have significantly affected their supply chains.

With the upcoming Chinese New Year (February 15-19, 2010), importers are urged to make sure they ask their suppliers to secure bookings two to three weeks in advance of the desired ship date. We fully expect carriers to be completely overbooked in the weeks before the Chinese New Year, so please be mindful of this.

Airfreight:
In the aftermath of a very rough holiday season for importers who ship by airfreight, particularly from Hong Kong and Shanghai to the U.S., Fedex announced that it will use the first two if its new 777 freighters on routes between Hong Kong and Memphis starting January 2010. Space is still very tight coming from Shanghai to the U.S. and rates are still elevated coming from that area. Just before Christmas, the backlog of cargo waiting to be shipped by air in Shanghai was just over 6,000 tons.

Recent developments in counter-terrorism have resulted in the need for very strict measures in screening all cargo. British Airways World Cargo recently announced that it will impose a screening charge of $0.05/kg on actual weight for cargo originating from the U.S. to all overseas destinations. This charge is in response to a TSA screening mandate that was effective February 1, 2009 requiring 50% screening of cargo on passenger aircraft with a full 100% screening of cargo required as of August 2010. Screening charges do not apply to any cargo shipped on a British Airways World Cargo freighter service or pre-screened cargo from a Certified Cargo Screening Facility (CCSF).

Ocean Freight:

U.S. exporters can expect their business opportunities overseas to grow in the coming months as the weak dollar causes increased demand for American commodities. This is happening at a time when carriers are reducing their Asia to U.S. fleets. With demand going up while capacity decreases, carriers are using this as justification to raise rates. The majority of carriers are raising rates between $100 and $150 per 40' container effective January 1, 2010. Even though carriers are raising rates, the average rate per container is still well below the levels that exporters experienced last year. Most exporters are tolerant of the rate increase as long as it creates assurances that the equipment and vessel space will be available. Unfortunately, just the opposite is expected to occur. This will undoubtedly leave exporters wondering why carriers continue to base their capacity levels on the import trade when all forecasts point to increased exports in the coming year.

All cargo transiting the Gulf of Aden on its way through the Suez Canal will be subject to a Gulf of Aden Surcharge of $41/20' and $82/40' effective January 15, 2010. This affects all cargo on all water services from the Indian Subcontinent and Southeast Asia or any cargo transshipping via Singapore and Hong Kong that is going direct to the U.S East Coast via the Suez Canal (for example, MSC's Golden Gate Service to the U.S. East Coast)

The funds received by the carriers by this surcharge will cover:

- Increased insurance premiums imposed on carriers to sail through the Gulf of Aden
- Hazardous duty bonuses to the ships' crews
- Extra fuel burned when crossing the Gulf of Aden because carriers have to proceed at maximum safe speed
- Anti-piracy equipment that has been put on board the vessels
- Additional security measures taken to protect the crews, vessels, and cargo on board

BAF (Bunker Fuel) increases are set by all carriers to take effect on January 1, 2010. The carriers have announced that BAF will increase to $45/40' to the U.S. West Coast and $86/40' to the U.S. East Coast.

Safmarine Lines has announced it will not only extend its Peak Season Surcharge (PSS) but also as of January 5, 2010 they will increase their PSS for all cargo from all Far East origins to all U.S. destinations as follows:

- Old Tariff: $400/500/565/635 per 20'/40'/40'HC/45'
- New Tariff: $640/800/905/1015 per 20'/40'/40'HC/45'

Hapag-Lloyd has announced that they expect to lose money in 2010 as well as 2009. Hapag is facing losses of $1 billion in 2009 and they don't expect to be profitable through 2010 as well.

In a deal that is waiting for final approval by lawmakers and regulators, the port of Baltimore will lease its main container terminal, Seagirt Terminal, to a private operator, Ports America, which will expand the terminal to handle the larger megaships that will be able to move through the Panama Canal after 2014. Ports America will invest an estimated $105 million to build a new four-crane berth at Seagirt with 50-foot water depth. Baltimore Port officials stated that Ports America expects to invest up to $500 million in capital projects at the port over the next 50 years.

DOMESTIC

Trucking bankruptcies in 2009 will be putting upward pressure on rates in the first quarter of 2010. Trucking companies report tighter capacity and somewhat higher rates as retailers start replenishing inventories. Much the same as ocean carriers, the domestic carriers are cutting extra capacity out of their networks at the present time. There are a few notable exceptions: Con-way Truckload is currently shifting capacity to its potentially more profitable short-haul service and starting in January, Con-way will add 300 trucks to its fleet to haul regional freight.

SAMUEL SHAPIRO & COMPANY, INC. NEWS

Employee of the Month

As previously featured in "Shap" Talk, Samuel Shapiro & Company, Inc. has been sharing with you the names of employees who have been recognized for their exceptional efforts and contributions to our Company. At Shapiro, we continually work to develop, challenge, and inspire all of our employees to grow individually and with the Company. This month, we would like to recognize Billie Mullineaux, Charleston Import Coordinator, for her outstanding performance and contributions.

We encourage you to provide us with employee feedback! Please email us at hr@shapiro.com.

WE WANT TO HEAR FROM YOU!

Do you have suggestions for an article? Is there a topic you'd like us to cover in a future issue? Please let us know! Send your feedback to shaptalk@shapiro.com.