



“SHAP” TALK
May 2010 Issue No. 97

In this issue:

SEMINARS

Shapiro’s Import Compliance and Textile Seminars – Register Today!

TRADE NEWS

CBP Outreach Sessions for ISF

Export Control Reform Initiative

Senate Expected To Pass S. 510 FDA Food Safety Modernization Act

Commerce Releases “A Profile of U.S. Exporting Companies, 2007 – 2008”

International Trade Commission Investigation on HTS Changes for Footwear

State Dept. Updates Guidelines for Preparing Electronic Agreements

COMPLIANCE CORNER

Help! I Got a Marking Notice!

TRANSPORTATION UPDATE

May 2010 Update

SAMUEL SHAPIRO & COMPANY, INC. NEWS

Where’s My Freight?

Employee of the Month

WE WANT TO HEAR FROM YOU!

SEMINARS

Shapiro's Import Compliance and Textile Seminars – Register Today!

Spring is in the air and that means Shapiro's great seminars are right around the corner!

Join us for our first public West Coast seminar on Wednesday, June 16th, 2010, from 9:00 a.m. to 4:00 p.m., at the Avia Hotel in Long Beach, CA. We will be hosting two seminars: The morning session will cover Import Compliance and the afternoon session will discuss Textiles.

The Import portion will cover the basics of what you need to know to be a compliant importer. The Import session will also include 10+2 Importer Security Filing and the Lacey Act. The Textile session will be an overview of importing textiles and apparel into the United States, including classification guidelines, terminology, what documents textile importers need to verify origin, and an update on the multitude of free trade agreements.

Training is an important investment for importers even in a troubled economy. During a Customs & Border Protection audit, you will be asked what kind of training your import staff has received. Did you know that the lack of training is a key cause leading to penalties? Spending a little bit of money on training now will lead to significant cost savings down the road.

You may sign up for the Import class only (morning), Textile class only (afternoon), or both (all day). If you attend both sessions, lunch at Avia's Rooftop Terrace will be included.

Date: June 16, 2010

Location:

Avia Hotel
285 Bay Street
Long Beach, CA 90802-8161
Hotel telephone: 562-436-1047
<http://www.aviahotels.com/hotels/longbeach/>

Time:

9:00-12:00: Import Compliance Seminar
1:00-4:00: Textile Seminar

Cost:

Import Compliance Session (Morning)

single export-control list that will make it clear to U.S. companies which items require licenses for export and which do not. He also mentioned a single licensing agency to streamline the licensing process and allow the Government to focus on controlling critical technologies and items. The government also intends to combine the multiple excluded parties lists into one comprehensive list to be checked. These items themselves will mean a major change to the current export control system. The reform is designed to reinforce U.S. national security and protect U.S. competitiveness. The full text of Defense Secretary Robert Gates speech on April 20, 2010 can be accessed on the U.S. Department of Defense website at:

<http://www.defense.gov/transcripts/transcript.aspx?transcriptid=4613>.

On the same day, the White House issued the following Fact Sheet on the President's Export Control reform, which can be accessed on The White House Website at: <http://www.whitehouse.gov/the-press-office/fact-sheet-presidents-export-control-reform-initiative>

President Obama, in August of last year, initiated a comprehensive review to identify possible reforms to the system. Although the United States has one of the most robust export control systems in the world, it is rooted in the Cold War era and must be updated to address the threats we face today and the changing economic and technological landscape.

The assessment was conducted by an interagency task force created at the direction of the President and included all departments and agencies with roles in export controls. The assessment found that the current U.S. export control system does not sufficiently reduce national security risk based on the fact that its structure is overly complicated, contains too many redundancies, and tries to protect too much.

The current system is based on two different control lists, administered by two different departments, three different primary licensing agencies (none of whom sees the others' licenses), a multitude of enforcement agencies with overlapping and duplicative authorities, and a number of separate information technology systems (none of which are accessible to or easily compatible with the other), or agencies with no IT system at all that issues licenses. The fragmented system, combined with the extensive list of controlled items which resulted in almost 130,000 licenses last year, dilutes our ability to adequately control and protect those key items and technologies for our national security. The goal of the reform effort is "to build high walls around a smaller yard" by focusing our enforcement efforts on our "crown jewels."

The review's overall findings have the full support of the President's senior national security team.

Key Recommendations

The Administration has determined that fundamental reform of the U.S. export control system is needed in each of its four component areas, with transformation to a:

- ◆ Single Control List,
- ◆ Single Primary Enforcement Coordination Agency,

- ◆ Single Information Technology (IT) System, and
- ◆ Single Licensing Agency.

Implementation

The Administration will engage with Congress to consult and seek its input on the proposed reforms. To deploy the new system, the Administration has prepared a comprehensive, three-phase approach and is currently moving forward to make specific reforms which can be initiated immediately and implemented without legislation. The approach will make the necessary changes to the current system to transition it to the revised, enhanced system in Phase III:

Phase I makes significant and immediate improvements to the existing system and establishes the framework necessary to create the new system, including making preparations for any legislative proposals. This phase includes implementing specific reform actions already in process and initiating review of new ones.

Control List – refine, understand, and harmonize definitions to end jurisdiction confusion between the two lists; establish new independent control criteria to be used to screen items for control into new tiered control list structure.

Licensing – implement regulatory-based improvements to streamline licensing processes and standardize policy and processes to increase efficiencies.

Enforcement – synchronize and de-conflict enforcement by creation of an Enforcement Fusion Center.

IT – determine enterprise-wide needs and begin the process to reduce confusion by creating a single U.S. Government (USG) point of entry for exporters.

Phase II results in a fundamentally new U.S. export control system based on the current structure later this year. This phase completes deployment of specific Phase I reforms and initiates new actions contingent upon completion of Phase I items. Congressional notification will be required to remove munitions list controls or transfer items from the munitions list to the dual-use list, and additional funding will be required both for enhanced enforcement and the IT infrastructure.

Control List – restructure the two lists into identical tiered structures, apply criteria, remove unilateral controls as appropriate, and submit proposals multilaterally to add or remove controls.

Licensing – complete transition to mirrored control list system and fully implement licensing harmonization to allow export authorizations within each control tier to achieve a significant license requirement reduction which is compatible with national security equities.

Enforcement – expand outreach and compliance.

IT – transition toward a single electronic licensing system.

Phase III completes the transition to the new U.S. export control system. Legislation would be required for this phase:

Control List – merge the two lists into a single list, and implement systematic process to keep current.

Licensing – implement single licensing agency.

Enforcement – consolidate certain enforcement activities into a Primary Enforcement Coordination Agency.

IT – implement a single, enterprise-wide IT system (both licensing and enforcement).

Senate Expected To Pass S. 510 FDA Food Safety Modernization Act

The Senate is to start its consideration this spring of the S. 510 FDA Safety Modernization Act, which was introduced in March of 2009, in order to present its version of the H.R. 2749 food safety legislation that was passed by the House in July of 2009. The expectation is to have both versions reconciled and signed into law by the President this year.

According to the Senate Health, Education, Labor, and Pensions Committee, S. 510 is very similar to H.R. 2749 and contains the following provisions:

- More frequent inspection by the Food and Drug Administration (FDA) of food facilities. High risk facilities would be inspected at least yearly. Other facilities would be inspected at least every four years.
- Although not applicable to restaurants or most farms, facilities would be required to have preventive control plans in place to prevent adulteration of food substances and to identify potential safety hazards. The subjected facilities would include manufacturers, processors, packers, and those facilities that store or hold food products. The FDA would have access to plans and applicable documentation.
- A certification for high risk food products would be required by the FDA. The FDA would have authority to deny food products without the certification or products from facilities that have denied FDA access for inspections.
- The creation of a voluntary importer program which would provide importers with certifications of their foreign suppliers expedited entry clearances by the FDA. A user fee would be applicable for expedited entry.
- The authority for the FDA to issue a mandatory recall of any product that would cause harm or death to persons or animals where a company does not voluntarily recall the product at the FDA's request.
- The authority for the FDA to detain any food product that was adulterated or misbranded.

- Increased funding for FDA food safety program activities by way of user fees, re-inspection fees, etc.

The Senate's press release concerning S. 510 can be viewed in its entirety by visiting: <http://help.senate.gov/newsroom/press/release/?id=da41287c-c1ab-439c-9d54-1d4005112bc7&groups=Chair>.

Commerce Releases “A Profile of U.S. Exporting Companies, 2007 – 2008”

On April 13, 2010, the U.S. Census Bureau, Department of Commerce, released its report, “A Profile of U.S. Exporting Companies, 2007 - 2008.” This report provides information on identified companies and their known export value. The number of identified exporters increased by 7.5 percent in 2008. The known value increased by 11.0 percent.

During 2008, 10 percent (28.2 thousand) of all identified exporters were multiple location companies; these companies accounted for 76 percent of the known export value. In contrast, (260.5 thousand) single location companies, making up 90 percent of the exporting companies, contributed 24 percent of the known export value.

In 2008 the “identified U.S. exporters” accounted for \$1,148 billion in exports or almost 89 percent of the total value of exported goods (\$1,287 billion). In 2008 the number of identified U.S. exporters was 288.7 thousand, up from the revised 2007 estimate of 268.5 thousand. In 2007, the known value was revised to \$1,034 billion.

This information was gathered from the detailed export documentation used to compile the official U.S. trade statistics, and company information was taken from administrative records and Census survey data. We would suspect that future export statistics would be even more accurate with the mandatory filing of the Electronic Export Information (EEI) to the Automated Export System (AES) for Census.

This report has many tables, graphs, and exhibits and can be viewed as a full report or broken down in several individual exhibits to provide the user with details such as company type, employment size, partner countries, or selected countries.

For the full report issued by the Department of Commerce on April 13, 2010, please refer to the Census website at

<http://www.census.gov/foreign-trade/Press-Release/edb/2008/edbrel.pdf>

or view individual exhibits at

<http://www.census.gov/foreign-trade/Press-Release/edb/2008/#full>.

International Trade Commission Investigation on HTS Changes for Footwear

The International Trade Commission (ITC) has started an investigation and a comment request period on proposed changes to the Harmonized Tariff Schedule (HTS) to modify specific footwear tariff codes in chapter 64 in order to reconcile those classification codes with current World Customs Organization decisions.

The subject footwear category includes footwear with outer soles of rubber or plastic where a layer of textile material has been added to the outer sole.

Specifically, the Treasury Department is proposing a new additional U.S. note and new various tariff number lines at the 8 digit level in the HTS. The additional U.S. note 5 would read:

5. For purposes of determining the constituent material of the outer sole pursuant to Note 4(b) to this Chapter, *no account shall be taken of* textile materials which do not possess the characteristics usually required for normal use of an outer sole, including durability and strength.

Note 4(b) defines the constituent material of the outer sole as the material having the greatest surface area in contact with the ground with no account being taken for accessories, reinforcements, etc.

Imported footwear within the scope of the new additional U.S. Note 5 would subsequently change the tariff numbers of certain other footwear with textile uppers and the other footwear not provided for under tariff numbers 6405.20.30, 6405.20.90, and 6405.90.90 to other subheadings with lower duty rates.

The ITC is requesting comments on the proposed changes by May 14, 2010. They will subsequently follow up with a preliminary report by May 28, 2010. The final report for submission to the President will be generated by July 12, 2010.

The ITC notice on the investigation can be viewed by visiting:
<http://edocket.access.gpo.gov/2010/pdf/2010-8360.pdf>.

The preliminary report can be viewed by visiting:
http://www.usitc.gov/tariff_affairs/modifications_hts.htm.

The ITC contact person is Donnette Rimmer at 202-205-0663.

State Department Updates Guidelines for Preparing Electronic Agreements

The U.S. State Department, Directorate of Defense Trade Controls (DDTC), Office of Defense Trade Controls Licensing (DTCL) has updated the Guidelines for Preparing Electronic Agreements for Technical Assistance Agreements, Manufacturing License Agreements and Warehouse and Distribution Agreements. These guidelines are

intended to serve as an aid in applying the International Traffic in Arms Regulations (ITAR); to provide clarity to Defense Trade Policy as it pertains to Agreements; and to establish a standard basis for submissions of agreements and related correspondence. The revised guidelines are highlighted in yellow for easy identification of the sections that are revised.

View the full text of the updated guidelines on the DDTC website at <http://www.pmdtc.state.gov/licensing/documents/agreement-ElectronicGuidelines.pdf>

COMPLIANCE CORNER

Help! I Got a Marking Notice!

Unless exempted, the law requires that every article of foreign origin imported into the United States be marked with the English name of the country of origin of the article at the time of importation. Merchandise must be marked in a conspicuous place as legibly and permanently as the nature of the product will permit to indicate the country of origin to the ultimate purchaser in the United States. The ultimate purchaser is defined as the last person to receive the item in its imported form. If the item is to be sold at retail, then the retail purchaser is the ultimate purchaser.

Customs takes country of origin marking very seriously and may assess monetary penalties for items that are improperly marked. If at the time of importation an article is not properly marked with the country of origin, and is not subsequently exported, destroyed, or marked under the Customs regulations, marking duties of 10% of the value of the article may be assessed. This will be in addition to regular duties.

A marking notice will be issued on CBP Form 4647 Notice to Mark and/or Notice to Redeliver. The form has two purposes (as is clear in its name). Usually the notice is issued because the imported merchandise has been found to be not legally marked with the country of origin. The Customs broker is generally the first party to know that a marking notice has been issued as there has usually been communication with the Customs inspector and a copy of the marking notice will be attached to the entry package. Customs will also mail a copy to the importer.

The second use for CBP Form 4647 is as a notice to redeliver. Merchandise may be subject to redelivery into Customs custody for failure to comply with country of origin marking requirements or when found not to be entitled to admission during the conditional release period (30 days except for textile products where the period is 180 days). As a basic importation bond condition, the importer of record agrees to redeliver merchandise to Customs in a timely manner upon demand by Customs.

If you receive a marking notice and the goods have already been delivered, you must immediately issue notification to the warehouse or facility holding the goods, with instructions for retaining the freight and proper marking. Merchandise subject to a

marking notice cannot be sold, distributed, or given away prior to receiving written authorization by CBP.

If the goods are still in Customs custody, you must notify your Customs broker and make arrangements for having the goods marked prior to release by Customs.

Once the goods have been marked, the CBPF 4647 must be completed by the importer and returned to Customs, generally within 30 days. Be sure to check the form to see if Customs has requested a marked sample as well. *But it's not over yet!* Customs has the option to physically inspect the goods to verify the marking actually took place. All merchandise must be retained intact and not disposed of until you receive written confirmation from Customs authorizing release. Customs must complete the final section of the CBPF 4647 and return the form back to you before you can distribute the merchandise.

You should also be aware that the next shipment from the same supplier will almost certainly be designated for an exam. It's imperative that you notify your supplier when deficient marking is found so that subsequent shipments are legally marked.

Your vendor contracts should include written instructions for country of origin marking. Improperly marked goods cause delays in receipt and use of merchandise, and cost importers time and money in marking. Consider charging back the vendor for marking expenses and penalties if you had previously provided them written marking procedures. As part of the receiving process, importers should also conduct periodic inspections of imported cargo to check for proper country of origin marking.

If you receive a marking notice, stay in touch with your broker and provide the broker copies of your correspondence with Customs.

TRANSPORTATION UPDATE

May 2010 Update

Industry News:

China has rare trade deficit

China recorded a trade deficit of \$7.2 billion in March and for the first time in six years saw its imports exceed its exports. Economists did note that this is a temporary situation caused by the Chinese New Year celebration when many exporters closed down for one or two weeks. China's trade deficit came mostly from Taiwan, Japan, and South Korea, while the country still maintained a large surplus in trade with the United States and European Union.

World Expo in Shanghai to cause special security measures for cargo

Please be aware that the World Expo will be hosted and held in Shanghai this year from May 1st through October 31st and will occupy large areas of the Shanghai Central

Business District on both sides of the Huangpu river. As with the recent Olympics in China there will be many cargo restrictions and special procedures for the duration of the Expo. Not all measures have been announced yet, but this is what the Chinese Authorities have announced thus far:

1. Additional Inspections, resulting in possible delays for both inbound and outbound air cargo and for some ocean cargo.
2. X-ray scanning will be required for all air cargo, and any oversized cargo exceeding 1.5m x 1.5m x 1.65m will need to be checked manually.
3. Cargo requiring 24 hour refrigeration will not be accepted.
4. Shanghai Airport Police and Security Bureau will carry out random inspections for explosives and all oversized cargo will be inspected.
5. Cargo agents will need to provide original Road Transportation Pass for Toxic Chemicals in addition to related documents when doing the delivery or pickup of Radioisotopes.
6. Ocean Carriers calling Shanghai terminals of both Waigaoqiao and Yanshan will not accept the following Dangerous Goods:
Class 2.1: UN1038, 1049, 1978, 3374,3478,3479
Class 2.2: UN1073, 1977
Class 3: UN1302
Class 4.1: UN2556, 2557,3097,3474
Class 4.2: UN1369
Class 4.3: UN1402, 1403, 3476
Class 5.1:UN14501461,1462,1482,1873,2626,2627,3210,3211,3213
And 3214
Class 6.1: UN1541,1580,1613,1642,1680,1809,3294
Class 8: UN1818,2280,2576,3477

Ocean Freight:

Carriers increase capacity with caution:

The import trade lanes from Asia to the USA have rebounded so many carrier executives are looking forward to bringing back vessel strings that were laid up during the recession. Others in the steamship industry are less optimistic and they say that the increased demand is only a temporary adjustment in inventories and they say the economy is too uncertain right now to restore capacity. Some carriers are unwilling to risk a shift from a tight capacity to overcapacity if carriers deploy too many vessels.

Nonetheless, the number of large (5000 TEU+) ships that are laid-up has decreased to the lowest level in more than 14 months. The amount will most likely fall even further over the next two months as the Asia Inbound Peak Season gets going and ocean carriers launch new services to add capacity to cope with the rising demand on space. This increase in capacity coincides with higher rates imposed by all carriers in all of the major trade lanes. These additional funds will be used to pay for the extra costs required to increase capacity and add vessels back into service. For example, COSCO has just announced that due to their forecast for increased growth in shipping traffic this year, they would reactivate 6 ships in the China to USA trade, however they are

worried that the extra operating costs will have to be monitored to see if this can be sustained.

The steamship industry is estimated to have 100 new ships with capacity of more than 5000 TEUs each ready for delivery to the carriers in 2010. Evergreen Lines has announced that they have decided to buy and build as many as 100 new ships in the future. This news came on the heels of an announcement by Evergreen's Chairman Chang Yung-Fa that the Evergreen Group has lost more than \$300 million last year. This loss is seen as modest compared to many of Evergreen's competitors. Evergreen plans include an order of 32 vessels of a new type with a capacity of 8000 TEUs each. During the downturn of the world's economies in the past two years, Evergreen had no ships on order.

Carriers announce General Rate Increases (GRIs) for May 1, 2010

Effective May 1, 2010 all carriers in the Asia to USA trade have announced General Rate Increases (GRI) to be imposed on all cargo. The vast majority have announced the following:

To US West Coast: USD 640/800/900/1010 per 20'/40'/40'HC/45'HC

To US IPI (inland rail locations) and US East Coast:

USD 800/1000/1125/1266 per 20'/40'/40'HC/45'HC

MSC is announcing the above rate increase as well from Asia to the USA, but they are calling it an ERC (Emergency Recovery Charge) instead of a GRI which could be a way of them getting around any "no GRI" clauses in existing contracts.

New contracts with steamship lines are being signed by May 1st and many of the carriers will include the GRI in the new base rates presented for cargo to be delivered to them on and after May 1st. Some carriers will adjust the old base rates somewhat so the entire GRI will not be added to the old rate but it depends on volume, commodity, and port pairs.

Effective May 10, 2010, MSC announced a GRI for all imports to USA from the East Coast of South America at USD 250/400/500 per 20'/40'/40' reefer

Effective May 13, 2010, MSC announced a change in the Fuel Surcharges to be revised to \$110 per container for rail only moves and \$140 per container for rail/motor combination moves.

Effective May 1, 2010, MSC announced a GRI of USD 450/575 per 20' /40' std or HC from India to all USA ports

Effective May 1, 2010, MSC announced a GRI of USD 480/600/675 per 20/40/40'hc.

Effective May 1, 2010, Hapag Lloyd will raise rates from India to the USA at USD 600/750/844/945 per 20'/40'/40'HC/45'.

Export rates to go up May 1st

Many carriers are also raising rates May 1st for export cargo from the USA as well. MSC's rates on exports to the Baltic and Russia will increase \$300/20' and \$400/40'/40'HC. MSC's rates to the West Mediterranean ports will increase by \$200/20' and \$300/40'. Rates to India/Pakistan/Bangladesh will go up \$200/20' and \$300/40'. Rates to the Eastern Mediterranean, Black Sea and Red Sea ports will increase by \$200/20' and \$300/40'. MSC has announced that these increases are seen as necessary to ensure equipment availability and reliable services. Hapag Lloyd raised rates to India by \$100/20' and \$200/40' and rates to Asia by \$150/20' and \$250/40' on April 1.

Airfreight:

Air Rates rise dramatically in the aftermath of the volcanic ash cloud

Air freight shippers face steep rate increases as the air carriers struggle to deal with backlogs caused by the volcanic ash cloud over Europe. The biggest impact of business is the backlog of cargo out of airports in Asia and particularly from Hong Kong. Rates from Asia to Europe have been three to four times the normal levels in response to shipper demand. Officials at Hong Kong airport estimate that it will take 50 Boeing 747 freighters just to clear the backlog of cargo at that airport. The backlog affects customers worldwide as the total shutdown of airspace in northern Europe lasted for five days.

Delta Airlines expands cargo services

Delta Airlines continues to expand cargo service from the USA to Europe and Asia. Delta is offering new service from JFK to Manchester, England beginning on May 1, JFK to Kiev, Ukraine on May 1, and JFK to Shannon, Ireland on May 7. Delta is also expanding cargo service from Detroit to Shanghai from five times weekly to daily beginning May 1. Delta plans more flights to more cities in the near future including additional services to Copenhagen, Malaga, Stockholm, and Zurich.

Qantas announces new freighter services

Effective April 29, 2010, Qantas Airlines will begin a new weekly dedicated freighter service from JFK to Shanghai. The entire aircraft will be allocated to JFK cargo.

United Airlines announces new service

United Airlines announced new cargo service between Washington Dulles (IAD) and Bahrain Airport (BAH) via Kuwait effective April 18, 2010.

DOMESTIC

Diesel rates rise again

We will see fuel surcharges continue their climb this month as diesel prices rose for the seventh time in eight weeks. Curiously enough, this happens at a time when oil prices have been on the decline.

Economic Downturn hits trucking industry hard

The financial crisis in the past year has eliminated billions of dollars in freight revenue in the trucking industry and has erased years of growth for many of the carriers. Carrier revenue rates for the nation's top 50 trucking companies fell at rates ranging from 3.5 to 42 percent in the past year.

SAMUEL SHAPIRO & COMPANY, INC. NEWS

Where's My Freight?

One of the most common inquiries we receive from our customers is, "Is my shipment released? How soon will I get it?" At Samuel Shapiro & Company, Inc., we have a host of event notifications to save you from picking up the phone or sending us an e-mail. We automatically send the information to you or anyone else in your company, depending on the data to be received. For example, notification of the Customs release can go to your Compliance Manager, while notification of delivery to your warehouse can go to your Warehouse Manager. The Shipping Manager may need to know when a shipment has been released by FDA so that the product can be distributed. Purchasing may want to know that the ISF has been accepted so that the shipment is OK to sail from overseas.

U.S. Customs is proposing to eliminate the mailing of liquidation notices (please see our April 2010 Shap Talk at:

<http://www.shapiro.com/docs/ShapTalk/April%202010%20Shap%20Talk%2096.pdf>

We can send you an event notification for liquidation as well, whether or not Customs goes through with their proposal.

If you are interested in learning what event notifications are available and how to sign up for them, please contact your Shapiro account representative.

We Deliver. Problem Solved. [™]

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 Said OrdazMoreno, Baltimore Import Coordinator, for his 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.