



“SHAP” TALK

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WE WANT TO HEAR FROM YOU!

TRADE NEWS

A Reminder of USDA Wood Packaging Material (ISPM 15) Requirements

In September of 2005, the United States, in cooperation with Canada and Mexico, began enforcement of phytosanitary standards for wood packaging materials (WPM) into North America in accordance with ISPM 15, the regulation for International Standards for Phytosanitary Measures; Guidelines for Regulating Wood Packaging Material in International Trade. We are publishing this reminder as we continue to see shipments with violative WPM. U.S. Customs reports they are finding many pests in shipments, even where the WPM is marked. These pests and violative WPM present a serious impediment to trade. Customs and USDA must strike a fine balance between protecting the U.S. from invasive species and letting trade flow.

The regulations require that all WPM entering or transiting the U.S. be properly marked to indicate that the materials were either heat treated or fumigated by methyl bromide in accordance with the specific treatment standards mandated. Enforcement of the regulations is essential for protecting U.S. agricultural resources including natural, cultivated, and urban forests as untreated wood poses a significant threat by introducing plant pests, pathogens, and disease.

WPM includes packaging materials such as pallets, crates, skids, and wood used to brace or support cargo. Exemptions to the regulations include manufactured wood materials such as fiberboard, plywood, alcoholic beverage barrels, and veneer.

After either the required heat or fumigation treatment, the WPM must be marked as required by the regulations in a visible location on each article with a legible and permanent mark, preferably on at least two opposite sides of the article to indicate that the WPM has been subjected to an approved treatment. Marks can vary by country and treatment establishment, but they all include at least the International Plant Protection Convention (IPPC) trademarked graphic symbol, the ISO two letter country code for the country that produced the WPM, the producer's national plant protection agency's assigned number, and an abbreviation which discloses the treatment type – either HT for heat treatment or MB for methyl bromide.

Violative WPM that is unmarked, improperly marked, or is found to contain wood boring pests of certain species *although marked* is considered untreated and therefore non-compliant. The regulations allow for immediate export of the violative material. No other methods of disposal are allowed including subsequent fumigation or destruction. Separation of non-compliant WPM from compliant materials is at USDA's discretion. All related costs of the ultimate disposition of non-compliant materials are the responsibility of the violator and at their expense.

As of March 2007, importers, carriers, or bonded custodians who import non-compliant WPM will be subject to liquidated damages and penalties. USDA will issue an Emergency Action Notice (EAN) to the party in violation of the requirements when the violation is discovered. Customs & Border Protection (CBP) at their discretion will

provide a reasonable amount of time to take the mandated action listed on the notice. CBP will assess liquidated damages upon failure to export the non-compliant WPM as required by the EAN. The liquidated damages claim may be issued for three times the entered value of the cargo, but not more than the obligated bond amount. Penalties may also be assessed by CBP when a party attempts to conceal a WPM violation, or the party has received five prior EAN's in a year as said action represents a pattern of violative conduct.

For additional information on WPM requirements visit the CBP website at www.cbp.gov or the USDA website at www.usda.gov.

Food Safety Modernization Act Implementation

The Food Safety Modernization Act (FSMA) was signed into law earlier this year. A recap of the new law may be found in our February 2011 Shap Talk at <http://www.shapiro.com/docs/ShapTalk/ShapTalk106.pdf>.

What should importers be doing to prepare for FSMA (or “Fizz-ma” as it is called)? With about 50 new rules, but no federal funding accompanying the FSMA legislation, implementation will take some time. The FDA is currently developing guidance documents for importers. FDA is also hosting outreach sessions and has published an FAQ document on its website. We have reproduced several FAQ's below. <http://www.fda.gov/Food/FoodSafety/FSMA/ucm247559.htm>

What are the key areas that the importer will notice that will be different under FSMA?

For the first time, importers will be specifically required to have a program to verify that the food products they are bringing into this country are safe. Among other things, importers will need to verify that their suppliers are in compliance with reasonably appropriate risk-based preventive controls that provide the same level of public health protection as those required under FSMA.

Who is subject to the foreign supplier verification program?

When the foreign supplier verification program's requirements take effect, they will apply to all importers, unless there's an exemption. The law defines “importer” as:

(A) the United States owner or consignee of the article of food at the time of entry of such article into the United States; or

(B) in the case when there is no United States owner or consignee as described in subparagraph (A), the United States agent or representative of a foreign owner or consignee of the article of food at the time of entry of such article into the United States.

What food do the program's requirements apply to?

The requirements of the foreign supplier verification program will apply to all food imported by the importer or agent of the importer, unless there's an exemption.

Are any companies exempt from this requirement?

The requirements do not apply to a facility if the owner, operator, or agent in charge is subject to, and in compliance with FDA's seafood, juice, or low-acid canned food products requirements. The exemption relating to low-acid canned food applies only with respect to microbiological hazards. The statute also directs FDA to exempt, by notice in the Federal Register, food imported into the United States in small quantities for research and evaluation purposes or for personal consumption. The statute further directs FDA to issue implementing regulations and guidance on FSVPs.

Office of Export Enforcement to Conduct Outreach Visits with Exporters

The main goal of the Bureau of Industry and Security (BIS), Office of Export Enforcement (OEE) is to keep the most sensitive goods out of the most dangerous hands. At the April 2011 National Customs Brokers and Freight Forwarders Association (NCBFAA) Annual Conference in Arizona, Special Agent in Charge, Anthony Levey, of the Los Angeles Field Office gave an update on the Office of Export Enforcement's role in current export security issues.

OEE priorities are:

- ◆ Weapons of Mass Destruction (WMD) proliferation
- ◆ Terrorism and State sponsorship of terror
- ◆ Diversions to unauthorized military end use

OEE's Mission is:

- ◆ Protect National Security and Foreign Policy Goals
- ◆ Prevention and Detection in Partnership with Industry
- ◆ Investigation and Prosecution
- ◆ Domestic and International Law Enforcement Cooperation

The educational component of OEE's mission is an important one for exporters all over the United States. As an international freight forwarder, Samuel Shapiro & Company, Inc. is keenly aware of the need for OEE's mission in educating the exporting community about preventing violations and dealing with exporter responsibilities under the Export Administration Regulations. Many exporters are right on top of their responsibilities under the Export Administration Regulations, but there are just as many that are truly not aware of the regulations at all, which is very troubling.

OEE plans to educate the exporting community with seminars, workshops, and exporter outreach visits. These outreach visits may or may not be announced to the exporter before an official from the Office of Export Enforcement comes knocking at your door. Per OEE, more than likely, exporter outreach visits will be unannounced!

Exporters really must have a plan in place today, not after OEE does an outreach visit to your company. We suggest that exporters always be prepared for a visit from OEE and at least have the following in place:

- ◆ If BIS visits or calls, you must have an affirmed point of contact at your company for export issues.
- ◆ Ask for the OEE visitor's name or a business card and ask to see his or her badge.
- ◆ Your company contact person for export must be familiar with the Export Administration Regulations, lists to be checked, red flags, and your company's responsibilities under Census regulations. You really don't want an official from OEE coming to visit your company and end up speaking with someone that doesn't have a clue about U.S. Export Regulations. On that point, OEE said if no one was available for export when the unannounced visit occurs, OEE would consider coming back at another time.
- ◆ When speaking with OEE or showing them export documentation, you must keep in mind that officials from OEE are trained to catch mistakes or problems with your paperwork or what you say. Choose your words carefully, and if you don't know something, admit you will have to look into it and get back with them.
- ◆ Be honest! If you find a mistake or problem when OEE is there, do not try to cover it up or lie. If you lie, this could lead to a possible criminal fine.
- ◆ OEE may not be able to tell you that you are under investigation when they do an outreach visit, so treat the visit as if you are under an investigation, and review all paperwork they looked at after they leave to be sure everything is in order.
- ◆ If you are not sure if your paperwork is free of problems, contact an expert.

Keep in mind that BIS OEE obtains information on exporters from various sources such as the Electronic Export Information (EEI) filings through the Automated Export System (AES), bills of lading and airway bills, confidential and industry sources, intelligence sources, and public sources.

Mr. Levey also advised that the U.S. Department of Justice just added its first new division in 60 years - the National Security Division, which is staffed with 225 employees dedicated to cases that may be brought by OEE. This is another indication that exporters cannot ignore U.S. Export Regulations. OEE stressed the fact that knowing a crime or violation is going on and not reporting it is a crime. OEE also mentioned that they are not only going after companies for civil and criminal violations, but they will also go after individuals in the company. These individuals could very well be your desk level employees that are under stress from sales and other departments to "get the shipment out."

OEE stated the solution is to increase training and cross train personnel, and to ensure export guidelines and classifications are current. If your training and your export compliance manual are not up to date, it is time to update. Seek expert help if you are not sure of the export process or do not have an export compliance manual, and get your top-level management in the loop. Please feel free to contact us at compliance@shapiro.com for further information or assistance.

New Fee on Dairy Products

Effective August 1, 2011, the Agricultural Marketing Service of the U.S. Department of Agriculture will be imposing a new fee on dairy products imported into the United States. The fee is based upon the percentage of cow's milk solids in the product, and is assessed at 7.5 cents per hundredweight which equates to \$0.01327 per kilogram of cow's milk solids.

Companies that import only organic products will need to pay the fee and then apply for a refund by supplying their organic certification. There is no refund for importers who import both organic and non-organic products.

Companies that import dairy products with cow's milk solids of U.S. origin will need to pay the fee and then apply for a refund with proof of U.S. origin for the cow's milk solids.

If an importer believes its product was made with milk solids of other than cow's milk and the fee was assessed, they can apply for a refund as long as they have proof that the milk solids were other than cow's milk solids.

With the exceptions noted below, the affected Harmonized Tariff codes will be revised to include a reporting quantity for cow's milk solids. U.S. Customs and Border Protection has stated that seven of the tariff numbers subject to the dairy fee will not have the 'CKG' content kilograms unit of measure. The trade will be responsible for computing the proper dairy fee assessment of \$0.01327 times the amount of cow's milk solids content in kg that should be reported for these seven tariff numbers. The tariff numbers that do not have a 'CKG' content kilograms unit of measure field are the following:

0401.10.0000
0401.30.5000
0401.30.7500
2105.00.1000
2105.00.2000
2202.90.2400
2202.90.2800

Dairy importers should ensure that the percentage of cow's milk solids is reflected on the commercial invoice so that this can be accurately reported and the correct dairy fee paid.

Here is a partial list of products that will be subject to the dairy fee:

Milk and cream
Buttermilk
Yogurt
Whey
Butter
Cheese

Margarine
Lactose
Certain sugar confectionary, including white chocolate
Certain chocolate products
Certain food preparations containing dairy
Ice cream
Milk based drinks
Casein
Milk albumin

The complete list of subject tariff numbers may be found in the Federal Register notice dated March 18, 2011:

<http://www.gpo.gov/fdsys/pkg/FR-2011-03-18/pdf/2011-6322.pdf>

Further information is available on the USDA website at:

www.ams.usda.gov/dairyimportassessment

Proposed Change to Antidumping/Countervailing Duty Regulations

During the period between the affirmative preliminary determination by the Department of Commerce in an antidumping or countervailing duty investigation and the issuance of the final antidumping or countervailing duty order, importers have the option to post a bond for antidumping or countervailing duties (ADD/CVD), or to submit a cash deposit for the ADD/CVD. A continuous bond or single transaction bond may be posted if the AD or CV duty rate is less than 5%. If the AD or CV duty rate is 5% or more, a single transaction bond must be used.

The Department of Commerce is proposing to modify its regulations to remove the option to post a bond during an ADD/CVD investigation and accept only a cash deposit. The proposed regulation will better ensure that importers bear full responsibility for any future ADD/CVD they may owe. While most of the duties on entries secured by a bond during the provisional measures period are ultimately collected, these collections can be very slow and administratively burdensome to U.S. Customs and Border Protection (CBP). In fact, CBP recently reported that half of uncollected debt is due to bond insufficiency and 70 percent of their debt write-offs are for ADD/CVD.

Please note: It is Samuel Shapiro & Company, Inc. policy not to bond any antidumping or countervailing duty because of the interest that accrues over the years until the case is final. The importer is responsible to pay these interest charges from the time of entry if the ADD/CVD is bonded. Many ADD/CVD cases will liquidate with ADD/CVD increases. Liquidation may occur years later. There is also the possibility that the Department of Commerce can rule that a preliminary margin in an ADD/CVD case is low and issue a final determination at a much higher rate (easily saturating a single transaction bond issued to secure the ADD/CVD).

The proposed rule may be found in the April 26, 2011 Federal Register:
<http://edocket.access.gpo.gov/2011/pdf/2011-10045.pdf>

TSA to Issue Receipt for Security Reports

The Transportation Security Administration (TSA) has issued a final rule, effective May 23, 2011, which establishes the process for any person to receive a receipt for making a report to TSA regarding any transportation-related security problem, deficiency, or vulnerability. This mechanism to receive a receipt for reports applies to all modes of transportation, including aviation, commercial motor vehicle, maritime, pipeline, public transportation, and railroad transportation. This is being done in accordance with the “Implementing Recommendations of the 9/11 Commission Act of 2007” (9/11 Act).

As background, in the immediate aftermath of the events on September 11, 2001, the Federal Aviation Administration (FAA) established a task force to respond to the large volume of incoming phone calls, e-mails, and letters from the public. On June 1, 2002, the Transportation Security Administration (TSA) assumed responsibility for this response to the public, creating what is now known as the TSA Contact Center (TCC). The TCC is a widely-publicized open line for the public to contact TSA. As such, it has also provided a mechanism through which TSA may receive information about potential threats to transportation security from both well-meaning persons and those with harmful intent.

In July 2010, the Department of Homeland Security (DHS) launched the “See Something, Say Something™” campaign as part of DHS’s commitment to promoting a vigilant citizenry that actively participates in protecting national security. In her September 2010 speech to first responders at the NYC Emergency Operations Center, DHS Secretary Napolitano noted in her prepared remarks, “Recall that it was a New York street vendor who tipped off a policeman about the bombing attempt in Times Square. It was a group of passengers on Flight 253 who intervened to stop the bombing attempt on Christmas Day.” She then continued, “Making individuals and citizens better informed and empowered is crucial, and DHS has therefore launched, and is expanding, a national campaign around a slogan you probably know well: ‘If You See Something, Say Something.’” The purpose of the campaign, as stated by the Secretary, is to raise “awareness of potential terrorist tactics, and emphasizing the importance of reporting suspicious activity to law enforcement.” Effective May 23, 2011, you will now get a receipt for what you report to the TSA.

The Final Rule can be accessed in the April 22, 2011 Federal Register:
<http://www.gpo.gov/fdsys/pkg/FR-2011-04-22/pdf/2011-9629.pdf>

Podcasts Available for Exporters

The Small Business Administration (SBA) has a number of podcasts available to assist small and medium sized companies. While their topics range from marketing and sales, human resources, and the technology that you employ to keep your business functioning smoothly; they also have a number of podcasts to assist you with exporting:

- Intellectual Property Rights: Protecting and Enforcing Your IPR in Foreign Markets
- Where Will Your Next Customer Come From? Look Around the World
- Competing in the Global Market: SBA's International Trade Programs
- Exporting to Russia
- Exporting to Uganda
- Exporting to Bahrain
- Exporting to Cameroon

These podcasts can be accessed on the SBA.Gov website at: <http://www.sba.gov/category/navigation-structure/counseling-training/online-small-business-training/managing-business/podcasts>

TRANSPORTATION UPDATE

May 2011 Update

INDUSTRY NEWS:

Carrier Container Ships Capacity Growth Sets Record to Meet Global Growth in Container Traffic

Global container traffic reached an all time high of 560 million 20-foot equivalent units in 2010, driven mostly by surging volume at Chinese ports. China now boasts nine of the world's top 20 container ports. South America was the second fastest growing region with ports increasing box traffic by 17.6 percent in 2010. This growth in traffic has been met by record growth in the amount of new container ship capacity coming on the market in 2011.

The record deliveries of new container ships in the next few months will likely add further down-pressure on ocean freight rates, and may reverse the spike in container freight rates in the past year. Thirty-two ships with a total capacity of 226,500 20-foot equivalent units will be delivered in April followed by another forty-one ships with an additional 204,000 20-foot equivalent units in May which would bring the total to 688,000 TEUs in new capacity thus far in 2011.

The recent increase in capacity in the market comes at a time when demand is showing signs of slowing down. While the world container ship fleet is projected to

increase by 8.6 percent in 2011 the demand-supply balance is expected to move gradually against the shipping company's favor.

Ocean Carriers Earn Record Profit in 2010; 2011 Doesn't Look As Promising

2010 was the most profitable year in the steamship industry's history and carriers collectively posted a profit of \$14 billion in 2010, but fell short to wipe away the aggregate \$15 billion in losses that the carriers experienced in 2009. OOCL and Wan Hai saw the largest operating margins over the past two years. Industry analysts are saying that the financial turnaround is likely to be short-lived as these same operating margins have tumbled in the first quarter of 2011 with the Asia-Europe trade showing an especially poor performance.

Drewry Shipping Consultants have forecasted that many ocean carriers will have trouble breaking even in 2011. The analysts point to an excess of supply in the market with new capacity which will likely cause a return to the carrier's old strategy of chasing market share which will most likely spell trouble for them.

Japan Tsunami Exacerbates Global Shortage of Cargo Containers

As a result of the slowdown of steel production at Japanese steel mills caused by the March tsunami, there is even more reason for the global shortage of cargo containers. The world's second biggest maker of shipping containers may increase their prices by as much as 11 percent this year. The average price of purchasing a 20-foot equivalent unit may rise to \$3,000 for June and July deliveries as compared to \$2,700 for the same period last year. Additionally, the devastation from the tsunami and earthquake may generate a demand of an additional 1 million replacement containers over the next two years in the wake of all of the containers that were destroyed or contaminated by radiation from the damaged nuclear power plant. The loss of container equipment availability is bad news, especially as carriers have created global shortages caused by slowing vessels.

Industry experts expect to see a shortage of equipment in late April and early May as ships fill up before contract rates go up in early May as new contracts are signed. It is feared that the shortage of boxes may stretch beyond 2012 as lines add larger vessels to their fleets and container manufacturers will struggle to supply enough equipment to the market to fill these larger vessels. This is one area that the steamship lines will point to in their attempt to keep container freight rates from going down to unsustainable levels again.

OCEAN FREIGHT:

CMA CGM Raises Rates Across its Network; Other Carriers May Follow Suit

CMA Lines has announced several rate increases effective May 1 for many worldwide trades including to the United States. CMA is looking to increase rates from Asia and the Indian subcontinent to the U.S. and Canada West Coast at \$400 per 40' and \$320 per 20'. The heaviest increase is from Asia and Indian subcontinent to the U.S. interior via intermodal rail services via the West Coast and East Coast at \$600 per 40' and \$480 per 20'. CMA plans to introduce a peak season surcharge of \$400 per 40-foot dry

containers effective June 15 from Asia and the Indian subcontinent to the West and East Coast of the U.S. and the West Coast of Canada. Other carriers are looking for similar increases but they have not put anything in writing just yet.

Export Outperforms Imports at Los Angeles and Long Beach

Exports in the port of Los Angeles increased 19.2 percent in March 2011 as compared with March 2010, while imports grew at 10.2 percent over the same period in that port. February and March are normally slow months for imports in the Trans-Pacific trade due to factories closing for the Chinese New Year but they will surely pickup again in April as they ramp up to peak season. U.S. exports are growing strongly this year due to a weak dollar, making U.S. goods more competitive overseas. Exports are being helped by growing consumer demand in Asia as well as increased agricultural exports as American farm products are filling the void in overseas markets that experienced poor harvests this past year.

AIRFREIGHT:

Asia Air Freight Rates Slide

Airfreight pricing out of Asia fell to its lowest level in a year and a half in February sliding 14.1 percent from the same month one year ago. The Drewry index, which measures airfreight pricing from Shanghai, also fell 6.4 percent from the month before, which is the third time in four months that this rate figure has shown declines. Capacity growth is seen as a reason for this decline.

Qatar Airways Purchases 33 Percent of Cargolux

Qatar Airways has announced that it will buy into the all cargo freighter service Cargolux with a purchase of 33 percent of the Luxembourg-based air freight carrier. This deal marks the first time that an airline from the Middle East will have acquired shares of a European carrier. Experts in the aviation field see this as a win-win situation as it certainly extends the geographical reach for both partners. Qatar Airways Cargo will feed its North and Latin American destined shipments into Luxembourg's Findel airport where Cargolux will take over and fly them to the Americas. Cargolux is expected to increase its presence in Doha by transferring some of its African and Southeast Asian cargo to Qatar Airways Cargo. The total value of this transaction is unknown, but is estimated at roughly 300 million Euros.

DOMESTIC/TRUCKING:

Mexico Trucking Pilot

The Federal Motor Carrier Safety Administration (FMCSA) of the Department of Transportation has announced a pilot program to allow Mexican truckers to operate in the United States beyond the U.S.-Mexican border. The pilot program is part of FMCSA's implementation of the North American Free Trade Agreement (NAFTA) cross-border long-haul trucking provisions. This pilot program would allow Mexico domiciled motor carriers to operate throughout the United States for up to 3 years. The program will be implemented only if U.S.-domiciled motor carriers are granted reciprocal rights to operate in Mexico for the same period.

Participating Mexican carriers and drivers would be required to comply with all applicable U.S. laws and regulations, including those concerned with motor carrier safety, customs, immigration, vehicle registration and taxation, and fuel taxation. The safety of the participating carriers would be tracked closely by FMCSA with input from a Federal Advisory Committee. FMCSA will ensure that at least 50 percent of participating drivers' licenses are checked when crossing the border. Shipments of hazardous materials are excluded from the pilot program.

The previous pilot program ran 2007-2009 with considerable objection from the Teamsters, despite their injunction to block the pilot being rejected by the Justice Department. It will be interesting to see if the Teamsters will continue their opposition to the new pilot.

Information about the program may be found in the April 13, 2011 Federal Register: <http://www.gpo.gov/fdsys/pkg/FR-2011-04-13/pdf/2011-8846.pdf>

Spot Market for Truck Rates Jump Four Percent

Truck pricing is inching up as shipping demand increases as the economic recovery quickens pace. The spot market for truck rates rose 4 percent from February to March and the rates are up 15 percent over the same period a year earlier. As truck capacity tightens more and more, shippers and third party logistics providers are turning to truck brokers to get help in locating and securing truckload capacity in the marketplace. Many truck brokers have shifted more truck freight to intermodal rail in the past year taking advantage of improvements in intermodal service and shorter-haul intermodal lanes now available in the market.

Pier Pass Study in Los Angeles-Long Beach Measures Wait Times

A recent study by PierPass has indicated that the median visit time for a truck calling the marine terminals of Los Angeles-Long Beach is 51 minutes, with a large majority of trucks spending fewer than two hours at the port. The study brought up concerns as the findings show that 12 percent of trucker visits to the port facilities took two to four hours. Truckers in the Los Angeles Basin have stated that in order for the port to be competitive, this measurement must be improved to keep shippers from looking elsewhere to service their cargo. The terminal operators and truckers are planning a series of meetings to develop best practices for reducing the unacceptable turnaround time at the port so that the financial burden on truckers and their clients can be reduced.

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 Alan Hughes, Atlanta Export 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.