

“SHAP” TALK

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TRADE NEWS

Conditional Release Period for FDA Merchandise

U.S. Customs & Border Protection (CBP) has issued a final rule, to take effect May 1, 2007, that clarifies the responsibilities of importers of FDA subject goods and provides a reasonable period of time to allow the FDA to perform its enforcement functions with respect to covered articles. The final rule includes a provision for a conditional release period of 30 days for any food, drug, device, or cosmetic for which admissibility is to be determined under the Federal Food, Drug, and Cosmetic Act.

When Customs set forth the Notice of Proposed Rulemaking in June 2002, they had called for a 180 day conditional release period. However, with over one hundred comments from the trade objecting to the length of the proposed conditional release period, Customs has shortened the timeframe to 30 days.

The conditional release period for FDA merchandise will end upon the earliest occurring of the following events:

- The date that FDA issues a notice that the merchandise may proceed;
- The date that FDA issues a notice of refusal of admission; or
- Upon the end of the 30 day period following the date of release

FDA may extend the conditional release period by issuing a notice of sampling, detention, or other FDA action, but the notice must be issued during the 30 day conditional release period in order to be valid.

If FDA merchandise is refused admission into the United States, CBP must issue a notice of redelivery within 30 days from the date of refusal. A failure to comply with the demand for redelivery will result in the assessment of liquidated damages equal to three times the value of the goods.

The standard CBP bond condition states that redelivery may be demanded within 30 days after release or 30 days after the end of any applicable conditional release period, whichever is later. Textiles are subject to a 180 day conditional release period. Customs cannot issue a demand for redelivery once liquidation has become final.

The final rule can be viewed at:

<http://a257.g.akamaitech.net/7/257/2422/01jan20071800/edocket.access.gpo.gov/2007/pdf/07-408.pdf>

C-TPAT Re-validations to Commence in 2007

U.S. Customs & Border Protection is planning to revalidate C-TPAT members this year starting with the companies that received the first validations in 2003 and 2004. The

SAFE Port Act mandates that the Department of Homeland Security establish a revalidation process for Tier 2 and Tier 3 C-TPAT members. The revalidations must take place at least once every four years following the initial validation. The SAFE Port Act also requires that Tier 1 participants be validated within one year from certification. This speeded up process will ensure C-TPAT members start receiving the increased Tier 2 benefits sooner.

Thus far, 66% of C-TPAT members have been validated. Customs expects to complete the remaining validations this year.

In one of the more controversial provisions, the SAFE Port Act also directs Customs to explore the use of third parties to conduct validations. CBP believes they have enough staff now to complete the validations. However, the third party validators could be used in China which so far has not permitted CBP supply chain specialists to conduct validation visits. C-TPAT mutual recognition with China is not expected any time soon. This means importers who source all their goods from China must remain with Tier 1 status since the foreign suppliers have not been checked out by CBP. The drawback to using third party validators is that the importer must pay for them; however, the use of third party validators will be voluntary on the part of the importer. C-TPAT members do not pay for CBP personnel's foreign validation visits.

Samuel Shapiro & Company, Inc. will be attending the annual CBP C-TPAT conference in New Orleans in April. Stay tuned for more C-TPAT news in upcoming Shap Talk editions and be sure to register for one of our C-TPAT workshops this year!

U.S. Trade Agenda - 2007

The office of the U.S. Trade Representative testified before two Senate committees in February regarding details of the U.S. Trade Agenda for 2007.

Although an impasse led to the formal suspension of Doha Round negotiations, the United States led efforts to revive negotiations during the remainder of 2006. Progress has continued during January and February 2007, yet continued work is required for a breakthrough.

U.S. negotiations focus on market access for agricultural goods, cuts in tariff and non-tariff barriers for manufactured goods, and expanded market access for services.

Continued Trade Promotion Authority (TPA) is needed to implement Doha. TPA is scheduled to expire on July 1, 2007; if allowed to lapse, the U.S. would be excluded from future regional and bilateral trade agreements.

The United States continues free trade agreement (FTA) negotiations under the current TPA with Korea and Malaysia. Under the present timeline, the President would be required to notify Congress of his intent to sign an FTA by April 1, 2007, and would need to sign the FTA by June 30, 2007.

Currently pending enactment are the FTA's between the U.S. and Peru, Colombia, and Panama.

The U.S. will continue to employ all resources necessary for aggressive trade enforcement and dispute resolution, with World Trade Organization lawsuits used where most effective.

Source: USTR Senate Finance Committee testimony (dated 02/15/07) is available at http://www.ustr.gov/assets/Document_Library/USTR_Testimony/2007/asset_upload_file144_10532.pdf.

BIS Issues Annual Report for FY 2006

The Bureau of Industry and Security (BIS) issued its Fiscal Year 2006 report which summarizes its activities from October 1, 2005 through September 30, 2006. This report shows an almost twofold increase in administrative penalties issued to exporters, with actual criminal fines down for exporters. BIS continues its aggressive outreach to educate exporters on their responsibilities under U.S. law. Below is a list of some of the highlights from the report.

In Fiscal Year 2006, BIS processed 18,941 export license applications worth approximately \$36 billion. This marked an increase of 13 percent over the 16,719 applications processed in Fiscal Year 2005, and represented the highest number of applications reviewed by the Bureau in over a decade. With an average processing time of 33 days, BIS approved 15,982 license applications, returned 2,763 applications without action, and denied 189 applications.

BIS investigations resulted in the criminal conviction of 34 individuals and businesses and over \$3 million in criminal fines for export and anti-boycott violations, as compared to 31 convictions and over \$7.7 million in criminal fines in Fiscal Year 2005. BIS investigations resulted in the completion of 104 administrative cases against individuals and businesses and over \$13 million in administrative penalties, as compared to 74 cases and over \$6.8 million in administrative penalties in Fiscal Year 2005. These penalties include 9 cases and \$95,950 for anti-boycott violations, as compared to 5 cases and \$57,000 in Fiscal Year 2005.

In Fiscal Year 2006, BIS continued its aggressive outreach program of communication with industry to educate exporters on their responsibilities under U.S. law. BIS instructed more than 4,800 people through 52 domestic export control outreach seminars conducted in 19 states. BIS conducted nine international export control outreach seminars in Germany and Austria which were well received.

BIS works to advance U.S. national security, foreign policy, and economic objectives by ensuring an effective export control and treaty compliance system and promoting continued U.S. strategic technology leadership. As an exporter, you must fully

understand your responsibilities under the Export Administration Regulations to avoid penalties issued by BIS.

If you require assistance understanding your responsibilities, please contact compliance@shapiro.com.

Source: To view the entire BIS 2006 Annual Report, go to:
http://www.bis.doc.gov/News/2007/annReport06/BIS07_all.pdf

Update on Voluntary Self Disclosure from BIS

The Bureau of Industry and Security (BIS) has issued an update on Voluntary Self Disclosure cases (VSD) from exporters. Wendy Wysong, Deputy Assistant Secretary for Export Enforcement, noted the importance of voluntarily self-disclosing export control violations and ensuring that such disclosures are full and accurate. It has been BIS policy to encourage companies to disclose potential violations of the export regulations to the Office of Export Enforcement (OEE). Self-disclosure allows BIS to conserve investigative and prosecutorial resources and encourages prevention and deterrence that might not otherwise occur.

Wysong also reiterated that companies that file accurate and thorough Voluntary Self Disclosures in accordance with the EAR receive great weight mitigation. By contrast, those that are not accurate and thorough, and certainly those intended to deceive BIS do not receive great mitigation.

Wysong offers an example of a recent administrative settlement reached between BIS and EPMedSystems for violations of the Export Administration Regulations (EAR). This has generated much interest in the export trade community since the exporter had filed a VSD. The EPMedSystems charging letter from BIS contained 23 violations, including multiple charges of false statements, conspiracy, exporting and reexporting with knowledge, and evasion in connection with unlicensed shipments of medical equipment to Iran. Evasion, conspiracy, and knowledge charges are not issued against companies that simply make a procedural mistake but rather are based on evidence of knowing and willful violations. In fact, this is the first time that BIS has charged a company with making false statements in connection with a Voluntary Self Disclosure.

EPMedSystems claimed they filed the VSD “immediately after learning of the shipments to Iran.” Emails obtained by BIS show that EPMedSystems knew of the shipments to Iran 5 months prior to their preliminary VSD filing with BIS. These statements, along with other statements made by EPMedSystems, resulted in an ultimate settlement, jointly agreed to by both BIS and EPMedSystems, of a penalty equal to 96% of the maximum possible fine.

An exporter filing a Voluntary Disclosure must be careful to ensure it is accurate and not misleading. Voluntary Self Disclosures must be timely, always submitted in writing, and must include a thorough account of all violations that occurred.

For guidance from BIS on Voluntary Self Disclosure, please refer to:
<http://www.bis.doc.gov/ComplianceAndEnforcement/VSDPaper101105.pdf>

The full BIS article on VSDs by Wendy Wysong is posted on the BIS website at:
<http://www.bis.doc.gov/News/2007/cases/VSD.paper.pdf> and also a chart of

Voluntary Disclosure Penalties for 2006 at:
<http://www.bis.doc.gov/News/2007/cases/FY2006VSD.pdf>

Steel Imports Hit Record High in 2006

On January 30, 2007 the American Iron and Steel Institute (AISI) released a report that for the sixth month in a row, China was the single largest source of steel imports into the United States. Finished steel imports from Asia nearly doubled in 2006 compared to 2005 (up 95%). Other significant increases in 2006 include Taiwan (up 208%), Malaysia (up 158%), China (up 133%), Thailand (up 111%), India (up 75%), South Korea (up 55%), and Japan (up 23%). There were also notable increases in 2006 vs. 2005 from countries of “Other Europe,” including Russia (up 114%) and Turkey (up 77%).

Because of the considerable increase in steel imports, the AISI has urged the U.S. Congress and the Administration to concentrate on methods to strengthen our trade laws. The North American steel industry has worked hard to be an internationally competitive industry and is continuing to seek productive U.S. trade enforcement. The AISI President and CEO Andrew G. Sharkey, III commented, “When we look at surging imports from China and other countries with a history of market-distorting trade practices, it’s clear our trade laws are in urgent need of strengthening.”

COMPLIANCE CORNER

Supporting Your Protest

By law and pursuant to 19 U.S.C. § 1484, the importer is responsible for using reasonable care when entering, classifying and valuing imported merchandise, and to provide the appropriate customs officer with such other documentation as is necessary to enable Customs to assess the proper duties on the merchandise, collect accurate trade statistics with respect to the merchandise, and determine whether any other applicable requirement of law is met.

The proper tariff classification of goods, valuation and origin declaration are critical elements in the Customs entry process. Do you know or have you established a reliable procedure or program to ensure that you know:

- what you ordered, where it was made and what it is made of;

- the price actually paid or payable for your merchandise;
- the terms of sale;
- whether there will be rebates, tie-ins, indirect costs, additional payments;
- whether assists were provided, commissions or royalties paid;
- are amounts actual or estimated;
- are you and the supplier related parties;
- you have taken reliable measures to ascertain the correct country of origin for the imported merchandise?

Faulty import documents such as an incomplete commercial invoice, may lead to the incorrect classification, valuation or origin determination by Customs.

Title 19 of the Code of Federal Regulations, Part 174 – Protests, deals with the administrative review of decisions of the port director, including the requirements for the filing of protests against such decisions, amendment of protests, review and accelerated disposition, and provisions dealing with further administrative review.

All importers have the right to formally protest CBP decisions with regard to:

- the appraised value of merchandise;
- the classification and rate and amount of duties chargeable;
- all charges or exactions of whatever character including the accrual of interest within the jurisdiction of the Secretary of the Treasury;
- the exclusion of merchandise from entry or delivery under any provision of the Customs laws;
- the liquidation or re-liquidation of an entry, or any modification thereof;
- the refusal to pay a claim for drawback;
- and for shipments entered prior to December 18, 2004, the refusal to re-liquidate an entry under section 520(c), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)).

While the importer has the right to protest a Customs decision, a properly supported protest is important in obtaining Customs approval for the protest.

What makes a good protest?

You must “justify” your legal argument. All facts must be supported. It’s not what you know that will convince Customs to issue a favorable decision; it’s what you can prove. Include the reason for the protest: value; classification; denial of entry; liquidation increase; refusal to pay a drawback claim; denial of 520 (c) petitions, if appropriate; or other issues as provided above.

Is there a specific description of the merchandise in question? Review your entry documents; provide descriptive literature and/or samples; refer to the HTS headings, chapter and section notes; and reference the Explanatory Notes or previous rulings. Use the law—e.g., for classification, use the General Rules of Interpretation to prove

your argument.

Don't rely solely on your own importer statements as Customs will deem them self-serving. For instance, obtain additional information from your seller, the overseas supplier or manufacturer.

Depending on the date of entry, the time frame for filing a formal protest is 90 or 180 days from the date of liquidation. For merchandise entered before December 18, 2004, CBP will allow 90 days from the date of liquidation. For merchandise entered on or after December 18, 2004, CBP will allow 180 days from the date of liquidation.

Samuel Shapiro & Company Inc. is ready to assist in the preparation and filing of formal protests on your behalf and to challenge post importation rate increases through the administrative protest procedures. If you feel that Customs action regarding the disposition of imported merchandise was not appropriate, please contact us at compliance@shapiro.com.

TRANSPORTATION UPDATE

March 2007

Port Security Fees imposed by carriers have increased for Terminal Security Charges (SC/L). In addition to any other applicable rates and charges, the Shipper shall be liable for payment of the charges imposed on the Carrier by any marine terminal or other third party to cover security-related costs as a straight pass through. When the security-related costs are assessed on a basis other than "per container" basis, the Carrier shall use reasonable efforts to convert charges assessed that fairly distributes the charges to a "per container" basis.

- Baltimore, MD. : USD 5.25 per container. ----- (RVS)
- Charleston, SC.: USD 5.00 per container.
- Savannah, GA. : USD 4.00 per container.
- Norfolk, VA. : USD 4.00 per container.

- Wilmington, NC.: USD 4.00 per container.
- New York, NY : USD 4.00 per container. ----- (ADD)
- For IMU service only ----- (ADD)
- Port Everglades, FL.: USD 2.00 per container.

Evergreen America Corp has a new name starting March 1, 2007 - Evergreen Shipping Agency (America) Corp. The Taiwanese company said the renaming of the North America agency is part of a global realignment and revamping of its liner services to take place this year. Services and staff will remain the same.

Far East

Happy New Year!! Gong hay fat choy!! It is the year of the pig!

Peak Season Surcharges (PSS) are set to expire for Asia Inbound cargo on February 28, 2007.

Hong Kong Consolidation – Keep in mind that we have import ocean and air consolidations from Hong Kong to the U.S. The ocean consol comes to Baltimore and the air consol to JFK. If you have LCL cargo from this region, please check into our rates; they are very competitive.

Northern Europe

Italian Consolidation – Keep in mind that we have import consolidations coming from Italy regularly. If you have LCL cargo from that region, please ask about our rates. This is direct service to Baltimore from La Spezia. Our warehouse is located in Milan and we have weekly or bi-weekly service.

The Mediterranean

Maersk Line has announced it will cut the BAF as of March 1 between Mediterranean ports and the U.S./Canada. The new charge should be \$319/20' and \$638/40'. No other lines have made this announcement yet, but hopefully will.

We now have a contract with OOCL from Istanbul and Izmir to New York, Norfolk, and Savannah. Commodities include tile, marble, foodstuffs, Zeolite, and packing material.

India

India seems to be the new China. This is a growing region for both import and export. OOCL and Evergreen have just opened lanes to and from this area. Samuel Shapiro & Co., Inc. recently visited India to meet with four agents to set up a strong foundation there. We are getting very competitive rates now from that region and our business should grow significantly.

Domestic USA

Intermodal rail import rates are due to increase further on March 1 with MSC and other carriers due to follow as their contracts with the rail are renewed. The actual inland rail rate increase amounts have not been announced yet. Many steamship lines, including Maersk and Zim, have recently announced that they will sharply reduce points served through inland bills of lading. In other words, the trend for steamship lines is to streamline their inland transportation network and focus inland rail traffic on fewer routes. Rail rates have been steadily on the rise, so steamship lines will use fewer hubs in the future. This will cause an increase in pressure on the trucking industry to handle more and more containers from fewer hubs which could significantly impact importers and exporters that are not located near ocean ports or inland rail hubs.

SAMUEL SHAPIRO & COMPANY, INC. NEWS

Want to Improve Your Cash Flow?

Have we grabbed your attention? Let Samuel Shapiro & Company, Inc. improve your company's cash flow! Why pay your duties daily for each and every transaction? We can set you up for periodic monthly statement (PMS) processing and you can pay your duties only once a month! And Customs does not assess any interest charges for payments made via PMS!

With PMS processing, importers deposit duties on the 15th business day of the month following the month in which the goods are released. This means merchandise released on the first to the last day of the month can be scheduled for duty payment on the *following* month's Periodic Monthly Statement. This eliminates the need to process duty payments on a transaction by transaction basis.

PMS streamlines duty statement processing while also positively impacting your cash flow. You can have a once a month, interest free duty payment. This gives your company flexibility in managing the working capital required for duty payments.

For example, if your shipment is released on March 1, 2007, duties would normally be due in 10 business days on March 15, 2007. Under PMS, your duty payment would not be due until the 15th business day of April which is April 20, 2007. You have just gained a float of 36 days! Let's say your shipment is released on March 31, 2007. Duties would normally be due on April 13, 2007, ten business days after the release. With PMS, your duty due date is April 20, 2007, one week later.

The first step to paying your duties via Periodic Monthly Statement is to set up an ACH account with Customs. This is a very simple process. Once your ACH account is established, Samuel Shapiro & Company, Inc. can apply for PMS processing on your behalf. The only requirement is a continuous bond.

Contact us at compliance@shapiro.com and we will start you on your way to significant savings.

News from Our Savannah Office Port of Savannah Harbor Deepening Project

In 1999, the U.S. Congress, in the Water Resources Development Act, approved the deepening of the harbor from 42 feet to 48 feet. There were contingencies placed on the approval regarding the completion of a Tier II Environmental Impact Study, a final mitigation plan and an incremental analysis of the channel depths from 42 to 48 feet.

2006 was a record year for the Georgia Ports Authority. Just over 2 million TEU's (twenty foot equivalent units) moved over the port facilities. The opening of the

Container Berth 8 facility and additional equipment for that berth and the other operating berths at the port, make it one of the top 10 ports in the United States. The building of distribution centers such as Target, Ikea, Home Depot and Walmart bring in new services – and those new services will host some of the largest container ships, hence the need for the harbor deepening.

The record setting growth does not impact just the Georgia Ports Authority; along with their growth comes major economic impact to Savannah and surrounding areas in the form of job creation, tax revenues and a more diverse population.

The Georgia Ports Authority is working closely with the U.S. Army Corp of Engineers, state and federal authorities, and environmental groups to make this project happen. When the huge container ships are ready to come to the Port of Savannah, the Port of Savannah will be ready.

Don't miss Shapiro's C-TPAT Workshop Seminar Series!

Want to become a C-TPAT member but not sure how to get started? Uncertain what information should be included in your security profile? Need help navigating the Customs C-TPAT portal?

Samuel Shapiro & Company, Inc. is kicking off its 2007 C-TPAT workshop series on Thursday, May 3, 2007, from 9:00 a.m. to 3:00 p.m., at the Four Points by Sheraton BWI Airport Hotel. The next workshop will take place on June 14, 2007, from 9:00 a.m. to 3:00 p.m., at the Down Town Club in Philadelphia, PA. Shapiro will also host a C-TPAT workshop in Atlanta, GA in October 2007; date and location to be announced.

The C-TPAT workshop will provide importers with the tools to effectively evaluate the security of their supply chains, analyze the results, communicate with business partners, and develop improvement plans. We will supply you with step-by-step instructions plus the materials to create your own security profile and application for admission to C-TPAT!

Seminar Locations:

May 3, 2007
Baltimore, MD
Four Points by Sheraton - BWI Airport
7032 Elm Road
Baltimore, Maryland 21240
Hotel Phone: (410) 859-3300

June 14, 2007
Philadelphia, PA
Down Town Club

6th & Chestnut Streets
Philadelphia, PA 19106
Hotel Phone: (215) 925-2040

Cost (includes seminar materials, lunch, and refreshments):

\$450 per person

Register today at the Shapiro website:

<http://www.shapiro.com/html/SeminarCTPATWorkshop3May2007.html>

If you have any questions or would like to register by phone, please contact compliance@shapiro.com or by phone at 800-695-9465, ext. 290.