"SHAP" TALK

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In this issue:

TRADE NEWS

CPSC Publishes 2008 Performance Report and Reorganizes CPSIA Website

The Consumer Product Safety Commission (CPSC) has posted to its website its 2008 Performance Report entitled, "Saving Lives and Keeping Families Safe."

Some highlights are referenced below. Note that this listing is not all inclusive.

- Imported consumer products increased by 217% from 1997 to 2007. In 2007, consumer products were valued at $639 billion; $269 billion or 42% were imported from China. 85% of all CPSC recalls covered imported products, and the majority of those recalls were on products that were produced in China including hazardous products such as children's toys and jewelry. To focus on the large number of imports, the CPSC expanded its Import Safety Initiative, which was established in 2007, by ensuring that safety is built into manufacturing and distribution processes, by enhancing store shelf surveillance to be able to remove unsafe products timely, and by increasing enforcement efforts at border crossings.
- In 2008 the CPSC established its Import Surveillance Division which provides for CPSC personnel at key U.S. ports of entry. The personnel test samples of imported products for defective or non-compliant products. In conjunction, the CPSC is also upgrading to a new state-of-the art laboratory which will improve the capacity to test products and to develop safety standards.
- The CPSC will continue to improve its programs with the General Administration for Quality, Supervision, Inspection, and Quarantine (AQSIQ), the CPSC's counterpart in China. The two agencies now hold monthly meetings to review safety issues, recalls, and to share best practice methods in safety.
- The CPSC conducted 563 voluntary recalls covering 60.8 million units, which is the most accomplished in the last 10 years. They also collected $3.675 million in civil penalties for failure to report product hazards and for distributing banned fireworks products.
- The CPSC launched a public education program on its new Consumer Product Safety Improvement Act of 2008 (CPSIA), which became law on August 14, 2008, by holding public meetings and by creating a dedicated CPSIA website.

The CPSC has also reorganized its CPSIA website. The reorganized website contains the following changes and updates:

- The website is divided into 6 categories including sections entitled What's New, CPSC Public Meetings, Timetable, General Counsel Advisory Opinions, Federal Register Notices and Other Requests for Comments and Information, and Requirements and Additional Information.
- The website also has tabs to links to separate web pages which include FAQ's covering a variety of topics such as the definition of children's products, tracking labels for children's products, hazardous and small parts advertising requirements, products containing phthalates, etc. In addition the site

contains a link to the Public Comments, Legislation, Labs, and CPSIA Section Summaries pages. The Public Comments page lists all of the comments made and questions the CPSC has received in relation to the CPSIA. The Legislation page contains the text of the CPSIA and the texts of other Acts that the CPSC oversees such as the Flammable Fabrics Act (FFA), Poison Prevention Packaging Act (PPPA), etc. The Labs page contains information on lab accreditation requirements and the registration form along with a listing of labs that are accredited to test children's products. The CPSIA Summary page contains summaries of various sections of the CPSIA including Section 101: Children's Products Containing Lead/ Lead Paint Rule, Section 108: Products Containing Certain Phthalates, Section 219: Whistleblower Protections, Section 232: All-Terrain Vehicle Standard, etc.

The CPSC 2008 Performance Report can be viewed in its entirety by visiting the CPSC web site at http://www.cpsc.gov/cpscpub/reports/2008par.pdf.

The CPSIA website is available at http://www.cpsc.gov/about/cpsia/cpsia.html.

Customs Issues Revised Policy on Festive Articles

U.S. Customs & Border Protection has posted "Guidance on the Classification of Festive Articles" on their website. This guidance is issued in accordance with the Court of International Trade's decision in *Michael Simon Design, Inc. v. United States.* The guidance document does not cover costumes, and due to pending litigation, it does not cover baking pans, cookie cutters, cookie stamps and presses with festive designs and/or motifs that are used in preparation for a festive occasion and not used or displayed during a festive occasion.

Utilitarian or functional articles with festive designs and/or motifs entered prior to February 3, 2007 are to be classified and liquidated as festive articles under HTS heading 9505 if (1) the articles are closely associated with a festive occasion, and (2) the articles are used or displayed principally during that festive occasion such that use or display at any other time would be aberrant.

Utilitarian or functional articles with festive designs and/or motifs entered on or after February 3, 2007 are to be classified according to their constituent material and in accordance with HTS Chapter 95 Note 1(v), and not as festive articles. However, if (1) the articles are closely associated with a festive occasion, and (2) the articles are used or displayed principally during that festive occasion such that use or display at any other time would be aberrant, the liquidation of the entries will be suspended pending the adoption of new special classification provisions in HTS Chapter 98 to assure substantial duty free, rate neutral treatment. Customs has asked the International Trade Commission to recommend adoption of this new duty free provision in Chapter 98.

Purely decorative articles not otherwise excluded from classification as festive articles should continue to be classified under HTS heading 9505.

The guidance document is available at: http://www.cbp.gov/linkhandler/cgov/trade/trade_programs/cargo_summary/festive_articles/field_directive.ctt/field_directive.pdf

Lacey Act Update

The Animal and Plant Health Inspection Service (APHIS), a division of the U.S. Department of Agriculture (USDA), has now posted the Plant and Plant Product Declaration Form – PPQ Form 505 to its website. This form can be completed online and printed.
http://www.aphis.usda.gov/plant_health/lacey_act/downloads/declarationform.pdf

Please note: The USDA has asked that importers NOT file this paper declaration and to wait until an electronic filing system becomes available. U.S. Customs & Border Protection expects to begin enforcement on April 1, 2009. The electronic filing is expected to be in place for the April 1st deadline. If not, that deadline could be pushed back. However, Customs officials have stated that if the electronic filing system is delayed by several months, the use of a paper declaration would have to be reconsidered.

The USDA has link on their website with a look up function for plant genus and species.
http://plants.usda.gov/classification.html

The 2008 Farm Bill significantly amends the Lacey Act and makes it illegal to import, export, transport, sell, receive, acquire or purchase in interstate or foreign commerce any plant taken or traded in violation of a U.S. state or most *foreign laws*. The trade community is concerned that is it being held accountable for compliance with foreign laws and has asked for a database in English of these laws.

We are still awaiting the definition of "common cultivar" and "common food crops" from the USDA and the Department of the Interior. A notice is expected in the Federal Register sometime around the New Year. USDA officials have noted that anything that is consumed by humans as food (including wine) is expected to be excluded as a common food crop. Common cultivar exclusions are expected to include cotton and tobacco (and their products).

Our last update on the Lacey Act Amendment and the plant and plant product declaration may be found in our November 2008 Shap Talk http://www.shapiro.com/docs/ShapTalk/ShapTalk79.pdf.

DR-CAFTA Effective January 1, 2009 for Costa Rica

The Dominican Republic-Central America-United States Free Trade Agreement (DR-CAFTA) Implementation Act was signed into law on August 2, 2005. The Act allows for the agreement to take effect, upon determination by the President, for those countries that have taken measures to comply with the requirements of the agreement. On December 23, 2008, President Bush issued a Proclamation implementing DR-CAFTA for the sixth and final signatory country, Costa Rica, effective January 1, 2009. The agreement is in effect for goods of El Salvador effective March 1, 2006; Nicaragua and Honduras effective April 1, 2006; Guatemala effective July 1, 2006; and Dominican Republic effective March 1, 2007.

Effective with respect to goods that are entered, or withdrawn from warehouse for consumption, on or after January 1, 2009, Costa Rica no longer qualifies for GSP, CBERA or CBTPA.

The total value of trade between the U.S. and the five current DR-CAFTA partners came to $32.6 billion in 2007. U.S. exports to all six DR-CAFTA countries totaled $22.4 billion in 2007.

Presidential Proclamation available at:
http://edocket.access.gpo.gov/2008/pdf/E8-31137.pdf

BIS 2008 Update Web Portal with Video Recordings

This year's Bureau of Industry and Security (BIS) conference on "Globalization, National Security and Technology Leadership" held September 29 - October 1, 2008, in Washington, DC is now available to view on the BIS web portal, which contains video recordings of a selection of the main conference and breakout sessions, as well as the full conference handout book in PDF.

The Update Conference on Export Controls and Policy is the Department of Commerce's main event pertaining to U.S. export controls. It provides an opportunity for exporting companies to interact with U.S. government officials who implement export control regulations, practices and policies intended to advance U.S. national security, foreign policy and economic interests.

These video recordings and PDF presentations are available on the BIS website at:
http://live.blueskybroadcast.com/bsb/client/CL_DEFAULT.asp?Client=193656&PCAT=1002&CAT=1002

Foreign Trade: Related Party Trade Database

The U.S. Census Bureau, Foreign Trade Division has a database where users can query import and export statistical information from past years starting with 2007.

Users can select a NAICS (North American Industry Classification System) code, which provides common industry definitions for Canada, Mexico, and the United States, or multiple NAICS codes, along with countries and other variables to obtain a report that comes up instantly.

The following variables are available to display in your report:

- Imports & Exports
  - ***Total Trade***:
  - ***Related Trade***:
  - ***Non-Related Trade***
  - ***Reported Trade***:

Definitions of these terms and help text can be found for each section of the report parameters that appear on the website. There are several query options and report layout options to choose from. There is no charge for this information.

You can access these reports on the Census/Foreign Trade Website at: http://sasweb.ssd.census.gov/relatedparty/

Fish and Wildlife Service Publishes New License and Fee Requirements

The Fish and Wildlife Service (FWS) has published a final rule in the December 9, 2008 Federal Register to increase inspection fees for wildlife imports and exports, add new fees for certain types of shipments, and eliminate some exemptions from import/export license and fee requirements. The rule clarifies when an import/export license is required by persons who engage in the business of importing and exporting wildlife. Inspection fees will gradually increase through 2012. The final rule is effective January 8, 2009.

The final rule includes a table with a Q&A of when a license is and is not required. An inspection fee table is also included. The current inspection fee for commercial shipments at FWS designated ports is $55.00. This fee will increase to $85.00 at the designated ports with an increase of $2.00 per year until 2012. The fee at non-designated ports will be $133.00 and will increase $3.00 per year until 2012. Importers and exporters who use non-designated ports will be required to pay any associated travel and per diem expenses needed for an FWS inspector to conduct an inspection at these ports.

The final rule is available at:
http://edocket.access.gpo.gov/2008/pdf/E8-29070.pdf

A list of designated FWS ports is available at:
http://edocket.access.gpo.gov/cfr_2008/octqtr/pdf/50cfr14.12.pdf

Census Releases Trade in Goods and Services Report for October 2008

On December 11, 2008, the Department of Commerce, U.S. Census Bureau released its report on U.S. International Trade in Goods and Services for October 2008. The nation's international deficit in goods and services increased to $57.2 billion in October from $56.6 billion in September, as exports decreased more than imports.

- Exports decreased to $151.7 billion in October from $155.1 billion in September. Goods were $104.8 billion in October, down from $107.8 billion in September, and services were $46.9 billion in October, down from $47.3 billion in September.
- Imports decreased to $208.9 billion in October from $211.6 billion in September. Goods were $174.6 billion in October, down from $177.4 billion in September, and services were virtually unchanged at $34.3 billion.
- For goods, the deficit was $69.8 billion in October, up from $69.5 billion in September. For services, the surplus was $12.6 billion in October, down from $13.0 billion in September

The full Census report for October 2008, with individual exhibits is available at http://www.census.gov/foreign-trade/Press-Release/current_press_release/press.html#highlights

Steel Import Monitoring Program

The Department of Commerce has published a notice in the Federal Register proposing to extend the steel import monitoring program until March 21, 2013. The Steel Import Monitoring and Analysis (SIMA) system is part of the steel safeguard program established in March 2002. The purpose of SIMA is to collect statistics on anticipated steel imports and to provide steel producers, steel consumers, importers, and the general public with information about steel import trends. Importers of steel mill products must obtain licenses through the SIMA system. Aggregate import data obtained from the steel licenses is updated weekly and posted on the SIMA website at http://ia.ita.doc.gov/steel/license/

The Department of Commerce feels the steel licensing program has proven useful to both steel producers and consumers. SIMA's goal is to provide timely and accurate data on steel imports with minimal burden on parties subject to licensing requirements. Licenses are required at the time of entry summary, but may be obtained up to 60 days prior to the expected date of importation. Entry summaries presented without the required license numbers are considered incomplete and are subject to liquidated damages.

Comments on the extension of the program are being accepted until January 12, 2009. The Federal Register notice is available at:
http://edocket.access.gpo.gov/2008/pdf/E8-28683.pdf

Oman Free Trade Agreement Effective January 1, 2009

On December 29, 2008, President Bush issued a Presidential Proclamation implementing the U.S. Oman Free Trade Agreement effective January 1, 2009. U.S. Trade Representative Susan Schwab said, "This agreement marks a milestone in strengthening ties and promoting freedom in the Middle East and is an important step in advancing President Bush's Middle East Free Trade Area initiative. The Oman agreement builds on U.S. free trade agreements concluded with Israel, Jordan, Morocco and Bahrain." When the agreement goes into effect, 100% of trade between the U.S. and Oman in consumer and industrial products will be duty free.

The Proclamation may be found in the December 31, 2008 Federal Register at:
http://edocket.access.gpo.gov/2008/pdf/E8-31234.pdf

TRANSPORTATION UPDATE

January 2009 Update

Samuel Shapiro & Company, Inc. now has a Global LCL program for both imports and exports to offer our customers competitive pricing and provide us with the technology that will support us and our customers. We can quote almost immediately and also have access from our website to sailing schedules.

Bunker Adjustment levels are decreasing either monthly or quarterly with the majority of carriers since fuel prices are going down.

DOMESTIC

The collection of the Clean Truck Fee (CTF) previously scheduled to begin on November 17, 2008 has been delayed at the ports of Long Beach and Los Angeles. More time is needed to complete ongoing discussions between Federal Maritime Commission staff and West Coast marine terminal operators regarding procedural issues. The terminals are also working to finalize the Program's automated gate administration and fee collection process. The CTF will be used to finance the purchase of new clean trucks thereby improving air quality in the San Pedro Bay area. The West Coast Marine Terminal Operator Agreement (WCMTOA) created the not-for-profit company PortCheck to collect the Clean Truck Fee to provide financial assistance for the replacement of as many as 10,000 trucks during the next three years. Due to the delay of the collection of the CTF and finalizing the automated gate access, terminal operators have reverted back to the temporary access sticker system launched October 1st to determine which trucks to allow into port terminals. Licensed Motor Carriers (LMCs) are reminded to leave their temporary access stickers (Port of Los Angeles green and purple concession stickers and Port of Long Beach orange concession decal) on their trucks. Once the collection of CTF begins, the cargo owner (the party named on the bill of lading) is responsible for paying the CTF. The fee will be payable by credit card or electronic funds transfer, and must be paid before a container can enter or leave the terminals.

Cargo owners can visit the PortCheck page at www.pierpass-tmf.org for updates (the PortCheck web site, www.portcheck.org, is under construction). Cargo owners that are already registered in PierPASS offpeak terminal access system will automatically be uploaded into PortCheck. Cargo owners that are automatically uploaded from PierPASS into PortCheck will first have to accept the terms and conditions of PortCheck before their account will be extended into PortCheck.

Visit www.portoflosangeles.org/cleantrucks or www.polb.com/cleantrucks to learn more on the Clean Trucks Program.

Railroads and steamship companies owning container chassis are now required to share safety responsibility with motor carriers. This is part of a federal highway bill now being enforced. The companies will have to register and file a motor carrier ID report with Federal Motor Carrier Safety Administration (FMCSA). They will also be required to establish inspection, repair, and maintenance programs. This also means they have to respond to driver reports about chassis defects and issues. This should result in fewer chassis being placed out of service and vehicle breakdowns due to chassis issues.

FAR EAST

Expect BAF decreases monthly or quarterly now with the declining fuel costs.

Carriers in the CKYH Alliance - COSCO, "K" Line, Yang Ming and Hanjin - have slashed transpacific, transatlantic and Asia/Europe capacity in response to declining demand, falling rates and "growing uncertainty in the world's economy." The capacity cuts come on top of those implemented in mid-October in the transpacific and Mediterranean-Far East trades by the four lines.

Meanwhile, the alliance's Mediterranean-Asia-America Pendulum service will be terminated from early 2009. That service, which employs thirteen 5,500-TEU vessels, represents around 13 percent to 15 percent of the CKYH carriers' capacity in the Pacific Southwest trade, but the lines said they will attempt to offset the shortfall by using other services, such as the South China Service (SEA), as a substitute. Lastly, including the Asia/Europe portion of the MAP pendulum, the carriers are taking roughly 9 percent of their capacity out of their Asia/North Europe trade by also terminating their China North Europe (CNX) service as of January 2009. The CNX service uses eight 4,000-TEU vessels. The earlier capacity cuts included suspension of the All Water East Coast (AWE) Central Loop, which reduced CKYH capacity in that trade by 18.5 percent, and the East Med Express (EMX). The member lines said they are also "conducting an extensive study to further restructure the Asia-East Mediterranean services, including the Aegean Sea Direct Express (ADX) service."

The government of China has implemented an advance manifest reporting program effective January 1, 2009, similar to the U.S.'s 24 Hour Rule. All inbound and outbound cargo manifests must be reported to Chinese Customs 24 hours prior to loading. For outbound cargo, a pre-manifest must be submitted electronically to Chinese Customs 24 hours prior to loading with a final manifest transmitted 30 minutes before loading. This new rule applies to cargo transshipped through Chinese ports as well. The rule does not apply to cargo for Hong Kong. U.S. importers should have already put their suppliers on alert for the 10+2 requirements; please be sure your suppliers are aware of this new Chinese rule as well. Exporters in China will have the responsibility to make sure that all is in order to meet the requirements of the new rule, shippers or their partner forwarders will need to review supply chain processes in their sourcing locations and ensure that manifest information is provided to their ocean carriers much earlier in the shipment process. U.S. export vessel manifests are already reported to U.S. Customs 24 hours prior to loading, so the steamship lines should not have a problem complying with the Chinese manifest submission requirement. You can find further information (in Chinese) from the Chinese Customs at: www.customs.gov.cn.

Chinese New Year is the week of January 25th this year. China and Hong Kong as well as many other countries in that region will be closed for the entire week. The prior week vessels traditionally get overbooked so plan accordingly and book cargo in advance.

Chennai India Port operators are threatening to intensify strikes if the National Highway Authority of India does not meet their demands for repairing roads that were badly damaged in a recent cyclone hit. Cargo is backing up at the port and there are major delays.

MEDITERRANEAN

BAF levels seem to be staying the same or lowering for January.

SOUTH AMERICA

After months of uncertainty in Brazil, the turbulent market we have been experiencing the past few months is finally returning to normal. Space allocation with the steamship lines has eased up in the past month which has greatly reduced issues with bookings, as well as containers rolling.

It is our hope that this improvement in the market will allow for more Service Contracts to be established with key carriers that will increase the validity of rates from the current month to month updates, to longer term validity. However, expect BAF to continue fluctuating on a monthly basis for the foreseeable future, as well as inland rates which will fluctuate based on fuel.

All new rates will be quoted for January as they expire the end of December. Your representative should be contacting you with these revised rates soon. It is our hope that with the market turning around that we can predict to see more consistent rates and fewer increases for our customers.

NORTHERN EUROPE

BAF levels seem to be staying the same or lowering for January.

SAMUEL SHAPIRO & COMPANY, INC. NEWS

Trade Outlook for 2009, an editorial by Margie Shapiro, President/CEO

Given the housing market debacle, the contagious financial and banking crises, and the global economic decline, the incoming Obama administration has quite a lofty to-do list. The world is holding its breath.

The indirect effect on trade and the transportation industry is painfully apparent. With unemployment steadily rising, consumers are gun shy about purchasing; importers, frightened by the media and fading consumer confidence, are depleting inventories; steamship lines, with their over-abundance of capacity, are turning worldwide ocean freight pricing into a negotiating playing field; and shippers are purchasing cautiously and seeking more "neighborhood" sourcing in order to limit their financial exposure. What is even more concerning is the reluctance of banks to lend—even to viable businesses—due to their own mismanagement.

As if consumer and bank-belt-tightening were not enough, Congress has enacted legislation—10+2, the Farm Bill and Lacey Act amendments, the Consumer Product Safety Improvement Act, and 100% scanning—that promises to inhibit trade with the United States. It also adds an unnecessary burden to our Government and causes undue financial and administrative distress from business to consumer. Should these security and environmental initiatives come to fruition, they could further weaken an already fragile economy without substantial benefit.

It appears at this point that the new administration appreciates the need for economic stimulus, investment in our infrastructure, and job creation. Fortunately, it also seems that it and its direction are being well received internationally, by our trading partners. This suggests a focused, multinational cooperation on solving the global crisis. While attention to security is surely here to stay, and while the Democratic posture has traditionally been more protectionist than free, I expect that, in due time, there will be a less onerous approach to security and a more aggressive, cohesive shift in direction to measures that will both stimulate the economy and facilitate trade.

News from our Savannah Branch Manager - Go With the Pro, Not With the Flow

I have been in this industry for many years and I am always amazed at the things I learn everyday. One of the most important facts I learned, very early in my career, was if you are not certain how to proceed with shipment – ask questions! We recently handled a shipment for an importer who relied on their peers to advise them on how to make arrangements to move their container of religious articles from the foreign port to the U.S. port. It was a disaster! Once arrived in the U.S., the container was detained by Customs and placed on an agriculture hold for examination. Upon examining the container, the inspectors found so many violations of banned agriculture related products, they determined the container could not enter into the U.S. and issued an Emergency Action Notice for its immediate export. Needless to say, this was a very hard financial blow for the importer. At Samuel Shapiro & Company, Inc. we encourage our customers to ask questions. We want you to understand how international trade works and how we can assist you in moving your freight from point A to point B. All of our employees are trained in customer service and you can be assured if we are not certain of the answer, we will find it. If not from our U.S. employees, then we will reach out to our foreign affiliates to find your answer.

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 Sharon Brown, Baltimore Account 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.