



“SHAP” TALK

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

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WE WANT TO HEAR FROM YOU!

TRADE NEWS

Customs 2009 Year in Review

U.S. Customs & Border Protection (CBP) has released their fiscal year 2009 year (ended September 30th) in review fact sheet. The global economic downturn was evident in a 15% decrease in the number of Customs entries filed from FY2008 as well as a 15% decrease in revenue collected by CBP. The value of imports declined by 25% to \$1.7 trillion. Customs states that imports in FY09 stabilized to levels last seen in FY05.

Despite the decrease in entries and revenue, Customs increased its workforce by 10% while trade enforcement actions remained constant. Through the end of FY09, Customs made more than 18,000 seizures valued at more than \$300 million. Intellectual property rights (IPR) seizures accounted for most of these actions. Footwear from China continues to be the number one commodity seized. Jewelry appears as a top seizure commodity for the first time, accounting for 4% of the total value of IPR seizures. Other enforcement actions include commercial fraud penalties (\$98 million) and collections of revenue through focused assessment audits (\$24.9 million). Textile seizures in FY09 were down due to the elimination of quotas from China on January 1, 2009. Trade compliance levels remained steady at 98.5%, down from 98.6% in FY08.

Customs inspected more than 108.5 million cars, trucks, buses, trains, vessels, and aircraft at 327 ports of entry. 86% of sea cargo entering the United States comes from a Container Security Initiative (CSI) port. Customs performed 56,000 examinations overseas as part of the CSI program. More radiation portal monitors were deployed at ports of entry, allowing Customs to scan 99% of truck cargo from Canada, 100% of truck cargo from Mexico, 100% of all mail and express consignment packages, and 98% of ocean containers for illicit radiological and nuclear materials.

The complete fact sheet may be viewed at:

http://www.cbp.gov/xp/cgov/newsroom/news_releases/11242009_5.xml

Importer Focused Assessments and Quick Response Audits

U.S. Customs & Border Protection (CBP) recently gave a presentation on their audit programs entitled "Single Issue Audits and Focused Assessments: How Audit Programs are Evolving and What You Need to Know to Prepare." The presentation was an overview of the two types of audits including Quick Response Audits and Focused Assessments.

CBP stated that for Quick Response Audits (QRAs):

- QRAs are single issue audits which address a limited objective.
- On average QRAs last six months.

- QRAs are conducted upon request from another agency or office, a CBP field office, or a CBP National Targeting group.
- Topics of QRAs include valuation, antidumping duty violations, missing cargo from bonded warehouses, intellectual property rights violations, container exam station overpricing, safety of food products, electronics, among others.

CBP stated that for Focused Assessments (FAs):

- FAs focus on internal controls based on risk management principals and criteria.
- FAs are normally completed in one year.
- Unacceptable problem areas include classification, valuation, and duty free programs.
- Subpar internal controls include having no controls in place, not maintaining a classification database, not monitoring broker entries for correctness, etc.
- The most common compliance errors include lack of documentation to support entry claims such as free trade agreement eligibility or non-dutiable charges, valuation issues such as not declaring assists or commissions, and providing incomplete invoice documents that don't allow a classification determination.

CBP stated for both programs that best practices include (this listing is not all inclusive):

- Partnering with CBP
- Management level commitment
- Internal training programs
- Creation of a compliance group or department
- Conducting internal control reviews
- Developing written formal policies and procedures

CBP also stated that they now conduct Supply Chain Security Observations (SCSOs) during FAs on non-participating C-TPAT companies, although an SCSO is not a part of the FA itself.

During the SCSO the auditor will:

- Conduct an entrance conference
- Secure a supply chain security questionnaire from the importer
- Interview personnel
- Obtain any required documentation related to security issues
- Tour facilities
- Hold an exit conference to summarize results of the review
- Issue a final report of the review

Further information on QRAs, FAs, and SCSOs may be viewed by visiting the CBP website at http://www.cbp.gov/xp/cgov/trade/trade_programs/audits.

U.S. and Canada to Partner in Security

The United States and Canada have announced their commitment to share security initiatives to combat terrorism and organized crime while ensuring the lawful flow of travel and trade across the border. The two countries have agreed to enhance information sharing and expand integrated law enforcement. Canada and the U.S. will work to fight money laundering and terrorist financing, and to combat human trafficking. The U.S. will join a biometric data sharing initiative with Canada, Australia, the United Kingdom, and New Zealand to strengthen the integrity of immigration systems.

The U.S. has its Customs-Trade Partnership Against Terrorism (C-TPAT) program, while Canada's program is called Partners in Protection (PIP). The U.S. Department of Homeland Security and Canada's Public Safety Ministry will work to align the two programs to achieve harmonization as quickly as possible. FAST (Free and Secure Trade) cards will now be accepted at all U.S.-Canada land and sea border ports. FAST members are reminded that old FAST cards will not be accepted effective January 5, 2010. Customs & Border Protection has been issuing new FAST cards since last March with enhanced security features that allow U.S. citizen cardholders to comply with the documentary requirements under the Western Hemisphere Travel Initiative. FAST has more than 92,000 members. The program is available to commercial drivers crossing both our northern and southern borders.

Department of Homeland Security press release available at:

http://www.dhs.gov/ynews/releases/pr_1259080420061.shtm

BIS Launches Online Tracking for Export License Applications

To better serve the exporting community, on November 18, 2009, the Bureau of Industry and Security (BIS) announced that it has launched an online version of its System for Tracking Export License Applications (STELA). You may now check the status of your export or re-export license applications, classification requests and AGR notifications at <http://snapr.bis.doc.gov/stela> . The applicant must input their BIS-assigned application control number (ACN) and they will subsequently receive the same status information as communicated through the current phone-based STELA voice response system. BIS advises the current phone-based system will eventually be phased out, so BIS encourages exporters to start using STELA Online now.

USITC Examines Exports by Small and Medium-Sized U.S. Companies

In a news release on November 25, 2009, the U.S. International Trade Commission (USITC) launched the second of three studies that will examine the extent and composition of U.S. exports by small and medium-sized enterprises (SMEs) and factors

that may disproportionately impede U.S. SME exports. The USITC, an independent, nonpartisan, fact-finding federal agency, is conducting the investigations in response to a request from the U.S. Trade Representative (USTR).

The second report, "Small and Medium-Sized Enterprises: U.S. and EU Export Activities, and Barriers and Opportunities Experienced By U.S. Firms," will analyze the performance of U.S. SME firms in exporting compared to SMEs exporting in other leading economies. The Commission will compare the exporting activity of SMEs in the United States and the European Union (EU) and analyze the distinctions between U.S. and EU firms in terms of sectoral composition, firm characteristics, and exporting behavior. It will also identify barriers to exporting noted by U.S. SMEs and strategies used to overcome special constraints and reduce trade costs, as well as the benefits to SMEs from increased export opportunities, including free trade agreements and other trading arrangements.

The USITC also welcomes written submissions for the record. Written submissions (one original and 14 copies) should be addressed to the Secretary of Commission no later than 5:15 p.m. on March 26, 2010. All written submissions, except for confidential business information, will be available for public inspection.

The contact is Peg O'Laughlin, 202-205-1819 and the entire news release can be viewed at: http://www.usitc.gov/press_room/news_release/2009/er1125gg1.htm

DDTC Posts Web Notice on Temporary Import Violations

On November 25, 2009, the U.S. Department of State, Directorate of Defense Trade Controls (DDTC), posted a web notice regarding temporary imports of defense articles. DDTC has established new guidance regarding these unauthorized temporary imports and the subsequent exports to return the items.

Temporary imports of defense articles require the importer or recipient to obtain a DSP-61 (Temporary Import License), or the importer must claim the exemption under 22 CFR 123.4.

DDTC has seen numerous situations where the foreign party returns a defense article without the U.S. party's knowledge or authorization that it is being returned. This normally takes place when the item is returned for repair or replacement. When this occurs, the U.S. importer is unable to coordinate the return and obtain the requisite DSP-61 license or claim the regulatory exemptions under §123.4(a)(1) of the International Traffic in Arms Regulations (ITAR) (22 C.F.R. Parts 120-130).

In order for the temporary import exemption to be claimed at the time of re-export, the article being returned must have been declared at the time of import on the appropriate U.S. Customs and Border Protection document.

In these instances, the U.S. party should investigate the nature and cause of the violation and determine if the U.S. entity had any responsibility at all for the violation.

If the U.S. entity determines they did not have any responsibility for the violation, then in lieu of submitting a separate Voluntary Disclosure in accordance with ITAR §127.12, the U.S. person can submit a DSP-5 license application to return the defense article to the foreign person. A transmittal letter, *signed by the Empowered Official*, must be submitted with the application, explaining the reasons why the applicant does not believe they have any responsibility for the violation and the steps taken to make this determination; the identities and addresses of all persons known or suspected to be involved in the activities giving rise to the unauthorized temporary import; and any measures taken to prevent a reoccurrence.

The DDTC web notice dated 11/25/2009 is available at: http://www.pmdtc.state.gov/licensing/documents/WebNotice_TemporaryImportViolations.doc

All DDTC notices are posted on their home page under New Items and Announcements at: <http://www.pmdtc.state.gov/>

Reminder That Social Security Numbers Can No Longer Be Used in AES

As of December 3, 2009, all USPPIs who currently report a Social Security Number (SSN) when filing in the Automated Export System (AES) must provide an Employer Identification Number (EIN). An EIN is available to both businesses and individuals and can be obtained by registering with the Internal Revenue Service.

The rule can be found on the Census website in its entirety at <http://www.census.gov/foreign-trade/regulations/fedregnotices/index.html>

U.S. Customs Celebrates its 220th Anniversary

U.S. Customs & Border Protection is celebrating its 220th anniversary this year and has issued a fascinating time line on its website. The time line starts July 4, 1789 when the 2nd Act of the First Congress established a system of tariffs on imported “goods and merchandises” to fund the new government, and goes up to June 2009 with the Western Hemisphere Travel Initiative. The time line has numerous interesting facts and photos. Check it out and take a “scroll” through history.

http://nemo.customs.gov/opa/TimeLine_062409.swf

TRANSPORTATION UPDATE

December 2009 Update

Asia Ocean Imports and Exports and Peak Season

Space availability on eastbound vessels from Asia to North America has tightened up over the holiday season which again will result in an increase in rates. Several carriers have announced rate increases as of January 1, 2010, and the world's largest carrier has implemented a new Peak Season Surcharge as of January 1, 2010 due to decreased capacity causing a lack of space availability. The General Rate Increases (GRI), Peak Season Surcharges, and Bunker Fuel Surcharges increases are too numerous to mention each and every carrier, but we summarize some of the main carriers below.

Space availability on outbound vessels from North America to Asia has also tightened up to have carriers report that they are either fully booked or overbooked during this holiday season.

Airfreight

The airfreight market out of Asia to the U.S. is chaotic right now in the wake of a 15.6 percent cut in capacity this past year. The rate levels have reached a five year high. The current rate levels out of China and Hong Kong to the U.S. are nearly double the amounts that were paid last year. All sources say that the rates will likely drop in or around the first week in January 2010 and will hopefully be stable for a few weeks followed by another spike in rates by the end of January and early February in the days leading up to the Chinese New Year holidays.

The freight backlog situation in Hong Kong has stabilized in the past couple of weeks but the situation in Shanghai has reached critical levels and the backlog of cargo waiting to load on the limited space available on flights out of Shanghai and other North China airports has increased this holiday season.

Ocean Freight

MSC announced that it will add Norfolk as a port of call and will no longer call Savannah and Port Everglades in its port rotation for the Golden Gate Service from Asia via the Suez Canal. MSC has 12 vessels of 6050 TEU capacity on the revised Golden Gate service which will have the following rotation: Shanghai, Ningbo, Chiwan, Yantian, Singapore, Salalah, Suez transit to New York, Baltimore, Norfolk, Freeport; then export via Suez to Jeddah, Colombo, Singapore, Chiwan and Hong Kong.

Evergreen Line plans to lay-up 17 ships in its effort to scale down its operating fleet in an effort to react to the current "soft" market conditions as we enter the traditional slack season.

CMA-CGM, the world's third largest carrier, lost \$515 million in the first half of 2009. In response to the bleak situation, CMA has cut both staffing and capacity to align to lower demands and they have cut secondary services and cut charter vessels from

service to reduce operating costs. Despite this, CMA is optimistic that they will see positive results in 2010 as the economy shows signs of improvement. CMA is currently negotiating with its banks to restructure a \$5.6 billion debt.

Maersk Lines will be implementing a new Peak Season Surcharge (PSS) with an effective date of January 1, 2010 in response to fully booked or overbooked vessels in the Asia to U.S. trade. From Shanghai, the GRI amount will be US\$400/500/565/635 per 20'/40'/40'HC/45'. From the balance of Asia the GRI amount will be US\$240/300/340/380 per 20'/40'/40'HC/45'.

In an effort to return to profitability in 2010, ocean carriers in the Asia to U.S. trade have announced another General Rate Increase (GRI) to be assessed on January 1, 2010. The announced GRI's are anywhere from \$400 per 40' to \$1000 per 40', but the final amount to be assessed is yet to be seen. Samuel Shapiro & Company, Inc. is working with the carriers and its agents to try to minimize the GRI for our customers.

Asia Exports

All carriers have announced BAF increases for January 1, 2009. For example, OOCL has announced a BAF increase by an additional \$35/20' and \$44/40' from USWC to Asia and \$69/20' and \$86/40' from USEC to Asia. NYK also announced two General Rate Increases (GRI) from the U.S. to Asia of \$150/40' effective December 1, 2009, and another GRI on January 15, 2010 at \$300/40'.

The TSA group of carriers, which controls 90% of export volume to Asia has announced that there will be a round of rate increases in the industry of \$150 per 40' from the USWC and \$200 per 40' from USEC and inland U.S. locations.

Northern Europe

European eastbound and westbound shipments will be subject to increased BAF levels on January 1, 2010. Please check with your Samuel Shapiro & Company, Inc. representative for updated rates to and from Europe. NYK also announced a General Rate Increase (GRI) to Europe effective December 1, 2009 at \$150 per 20' and \$300 per 40'.

MSC announced that in its efforts to maintain profitability given current demands and costs that yet again they will have a GRI effective January 1, 2010 from Europe to the U.S. The GRI amount is \$400 per 20' and \$400 per 40' container.

India Subcontinent

MSC announced a GRI effective January 1, 2010 for all shipments from Pakistan/India/Sri Lanka/Bangladesh to U.S. at \$200/20' and \$300/40'.

Exports to Brazil

Yang Ming Lines has announced an increase in their southbound rates from the USEC to Santos Brazil at \$75/20' and \$150/40' as part of their rate restoration efforts.

Domestic

Deep discounting in the LTL trucking industry has occurred recently and as a result, rates are 10 to 12 percent lower than they were a year ago. LTL truckers are reporting that the current pricing levels cannot be sustained. Truckers expect pricing to firm up in the coming months. Full truckload carriers report the same news as the LTL trucking industry.

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 Sharon Brown, Baltimore Import Coordinator, for her outstanding performance and contributions.

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

WE WANT TO HEAR FROM YOU!

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