"SHAP" TALK

January 2013 Issue No. 129

In this issue:

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TRADE NEWS

ILA and USMX Avert Strike, Agree to 30 day Extension

The International Longshoremen's Association (ILA) and the United States maritime Alliance (USMX) have agreed to a contract extension through February 6th, avoiding a December 30th strike at U.S. East and Gulf Coast ports. Federal mediators narrowly avoided port disruption after a deadlock in negotiations.

It was announced that a proposal for the main point of contention, container royalties, had been agreed upon, however details of the agreement are being kept confidential until negotiations are finalized. Talks had collapsed over the ILA's resistance to the restructuring of container royalties and its insistence that any extension be tied to maintaining them. The USMX had proposed container royalties be frozen at current levels with excess royalties being diverted to fund other ILA benefits. The USMX also wanted to phase out the royalties program over the next 25 years. Since the program became uncapped and open ended back in 2009, carriers have complained that costs have increased 50 percent.

Although mediators cleared an important hurdle while avoiding a strike and extending the current contract until the end of January, they still have not reached an overall agreement. The next obstacle to an overall contract agreement will be negotiations on work rules and labor practices, specifically requirements to maintain high staffing levels, with which employers want flexibility. This has been a particularly important issue for NY/NJ waterfront employers who complain about requirements that they hire 15-16 ILA members per work gang when only 9-10 are actually working at a time.

MCS Director George H. Cohen issued the following statement late last week on the United States Maritime Alliance and International Longshoremen's Association labor negotiations;

"I am extremely pleased to announce that the parties have reached the agreements set forth below as a result of a mediation session conducted by myself and my colleague Scot Beckenbaugh, Deputy Director for Mediation Services, on Thursday, December 27, 2012:

"The container royalty payment issue has been agreed upon in principle by the parties, subject to achieving an overall collective bargaining agreement. The parties have further agreed to an additional extension of 30 days (i.e., until midnight, January 28, 2013) during which time the parties shall negotiate all remaining outstanding Master Agreement issues, including those relating to New York and New Jersey. The negotiation schedule shall be set by the FMCS after consultation with the parties.

"Given that negotiations will be continuing and consistent with the Agency's commitment of confidentiality to the parties, FMCS shall not disclose the substance of the container royalty payment agreement. What I can report is that the agreement on this important subject represents a major positive step toward achieving an overall collective bargaining agreement. While some significant issues remain in contention, I am cautiously optimistic that they can be resolved in the upcoming 30-day extension period."

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Food Facility Registration Deadline Extended to January 31

The Food and Drug Administration has extended the food facility registration deadline from December 31, 2012 to January 31, 2013. FDA has taken this measure since the initial registration period was to have started October 1 and was delayed until October 22.

FDA has also updated its guidance document for food facility registration:
http://www.fda.gov/Food/GuidanceComplianceRegulatoryInformation/GuidanceDocuments/FoodDefenseandEmergencyResponse/ucm331959.htm

Facilities that manufacture, process, pack or hold food for human and animal consumption may register online at www.fda.gov/furls. Failure to register by the deadline will result in the suspension of the registration number, and shipments from those facilities could be held or refused.

Further information on food facility registration may be found on the FDA website at:
http://www.fda.gov/Food/FoodSafety/FSMA/ucm314178.htm?source=govdelivery

Informal Entry Limit to Increase January 7th

The informal entry limit is increasing from $2,000 to $2,500 effective January 7, 2013. Informal entries may now include textile shipments which were previously excluded from informal entry procedures due to quotas. Formal entries will still be required for goods subject to antidumping and countervailing duties.

The Merchandise Processing Fee (MPF) for informal entries is $2.00 as opposed to a minimum of $25.00 for formal entries. Customs estimates the trade will save approximately $13 million as a result of the change in value limit for informal entries.

The final rule announcing the informal entry limit may be found here:
http://www.gpo.gov/fdsys/pkg/FR-2012-12-06/pdf/2012-29193.pdf

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Actions of Customs Reauthorization Bill

On December 7th the House Ways and Means Trade Subcommittee introduced the bill entitled the "Customs Trade Facilitation and Enforcement Act of 2012" which includes actions to modernize U.S. Customs and Border Protection (CBP) and other related agencies.

The bill includes the following recommendations (not inclusive):

- *Specify the responsibilities of CBP's Commissioner who would be appointed by the President and who would report to the Secretary of the Department of Homeland Security (DHS). Named responsibilities would include safeguarding economic and security interests at ports of entry and borders, more consideration of input from and solicitation of the private sector including the Commercial Customs Operations Advisory Committee (COAC) regarding CBP regulations and policies, and administering any CBP revenue function as delegated.*
- Specify the responsibilities of the Deputy Commissioner who would also be a Presidential appointee. Responsibilities would include oversight of commercial operations, the development of information and communication technologies such as the Automated Commercial Environment (ACE), and oversight of the Office of International Trade (OT) which will be expanded to include CBP Import Specialists positions which are currently under the umbrella of the Office of Field Operations (OFO). The positions will have authority to classify and appraise imported goods, and to act as principal contacts and technical experts related to duty collections.
- Authorize the OT to establish and maintain Centers of Excellence and Expertise (CEE). The centers are meant to facilitate trade through industry specific knowledge, to increase the accuracy of trade data and information flow, and to foster industry partnerships through trusted partner programs such as the Importer Self Assessment (ISA) program. Establish an interagency CBP review board which would review proposed changes to CBP regulations and practices.
- Require the Commissioner to appoint a Trade Advocate who would consult with the private sector on the development of agency procedures and regulations, serve as a liaison between CBP and the trade on trade enforcement functions, and assist the Commissioner in resolving commercial operations issues.
- Establish a minimum standard for Customs brokers and importers regarding the identities of importers and their substantiation.
- Establish an importer of record program to maintain and assign importer of record numbers. The program will include criteria which will allow importers to obtain or be assigned a number, a centralized database of numbers which will include a history of numbers associated with each importer, and a database to ensure that duplicate importer of record numbers aren't issued.
- Implement an importer program which will allow CBP to adjust bond amounts for new importers based on risk levels. The program will allow increased oversight of new importers as well as non-resident importers who will be required to have a resident agent who will be required to secure a Customs bond or other security to protect CBP revenue and to assure compliance related to the importation of goods.

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- Establish an interagency committee chaired by CBP that will include other federal agencies which require documentation or licensing of import and/or export shipments. The committee will be tasked with establishing a certified importer program by the end of 2014 which will authorize expedited releases on shipments requiring other agency licenses or documents.
- Establish Customs broker penalties or revocation of licenses/permits for brokers convicted of terrorism.
- Increased enforcement of Intellectual Property Right (IPR) laws including the sharing of unredacted samples of detained or seized merchandise with the copyright or trademark owner for purposes of determining whether the goods infringe a trademark or copyright. There may be a bonding requirement for the IPR owner as a condition of disclosure.

A copy of the bill can be viewed in its entirety at the following link:
http://waysandmeans.house.gov/uploadedfiles/customs_bill.pdf

GAO Report on Customs Cargo Targeting System

The U.S. Government Accountability Office (GAO) has issued a supply chain security report on Customs and Border Protection's (CBP) cargo targeting system. Because it would be impractical for Customs to physically examine every shipment entering the United States, CBP uses its Automated Targeting System (ATS) to review shipments to assess the risk level and determine if the shipment warrants further examination.

The GAO report addresses how ATS supports Customs' targeting of maritime cargo container shipments for national security purposes, and the extent to which CBP assesses the effectiveness of ATS's national security targeting rules.

ATS is a web-based enforcement and decision support system that compares cargo information against intelligence and other enforcement data to determine the risk level for a shipment. The targeting rules use a weight set as each rule in the set has a specific weighted value assigned to it. Customs will assign a risk score from the weight set to each shipment as low, medium, or high risk. A shipment with a medium or high risk score will have shipment data reviewed, and a shipment with a high risk score will be held for examination. The risk score, however, is not the sole factor that determines whether Customs examines a shipment. CBP states that the ATS risk score is a starting point for the targeting process, and decisions regarding which shipments to examine are ultimately based on additional research.

The GAO report recommends that Customs ensure that future updates to the weight set are based on assessments of its performance and establish targets for performance measures to regularly assess the effectiveness of the weight set. Regular assessments of the weight set would ensure that CBP targeters have the best information available to make targeting decisions.

The full report may be found at:
http://www.gao.gov/assets/650/649695.pdf

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Interagency Task Force on Commercial Advocacy Created to Assist Exporters

On December 6, 2012, President Obama issued Executive Order 13630, which provides for the establishment of an Interagency Task Force on Commercial Advocacy. The task force is intended to maximize the U.S. federal government's ability to coordinate U.S. government resources that can be employed on behalf of U.S. exporters when they are competing for international contracts against foreign firms and to facilitate the growth of sales of U.S. goods and services globally.

The task force will be chaired by the Secretary of Commerce and will include senior level officials from the Departments of State, Treasury, Defense Agriculture, Transportation, Energy, Homeland Security and Health and Human Services. It will also include senior-level officials from the U.S. Agency for International Development, the Export-Import Bank of the United States, the Millennium Challenge Corporation, the Overseas Private Investment Corporation, the Small Business Administration and the U.S. Trade and Development Agency.

The president has instructed his administration to do everything in its power to better support U.S. exporters including streamlining services that will help U.S. businesses compete abroad. Through this Executive Order, the president is ensuring this commitment extends across 15 federal agencies, by making it easier for U.S. exporters to access the wide array of federal services to make them more competitive through the one-stop shop of the Advocacy Center at the Commerce Department.

Advocacy assistance is wide and varied but often involves companies that must communicate a message to foreign governments or government-owned corporations. The U.S. Department of Commerce's Advocacy Center will organize a customized, interagency advocacy campaign on behalf of U.S. exporters when they are competing for public international contracts against foreign firms. The task force will allow the administration to provide increased support for U.S. exporters beyond traditional commercial advocacy, by creating packages of government support for exporters from 15 federal agencies including promotion, financing, lead generation, market intelligence, technical assistance and other services.

There is an unprecedented demand for American-made products of every type: infrastructure, aviation, medical devices, security, energy and more. Much of this demand is expressed through government-let tenders. Other countries clearly recognize this opportunity and have been focused on aggressively promoting their own companies. President Obama believes we should help our companies put their best foot forward. It is time that federal assets are coordinated and streamlined to more effectively and efficiently help American companies compete for these lucrative international contracts and, as a result, support the president's National Export Initiative to expand U.S. exports and create American jobs.

This Executive Order builds upon and coordinates existing programs to create a whole-of-government efficiency that can best compete against state-supported international competitors.

Please refer to the Federal Register Notice issued on December 11, 2012:
http://www.gpo.gov/fdsys/pkg/FR-2012-12-11/pdf/2012-30060.pdf

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U.S.-Canada Initiative: Beyond the Border Implementation Report

The United States and Canadian governments made significant progress over the past year in realizing cross border initiatives. The progress has been guided by extensive and constructive engagement with stakeholders in the United States and Canada. Comments on this Northern border initiative were solicited from the U.S. and Canada and comments came by in-person meetings and on-line submissions, from all levels of government, non-governmental organizations, the private sector, and individuals about the security, trade, and travel issues that matter most to them. The input received has guided the Beyond the Border Action Plan, and both Governments intend to continue to work with stakeholders as the implementation plan moves forward. The U.S. and Canada want to ensure transparency and accountability, and are providing information to the public through websites and press releases.

This report organizes the implementation efforts into the four key areas of cooperation outlined in the Beyond the Border Declaration.
I. Addressing Threats Early
II. Trade Facilitation, Economic Growth, and Jobs
III. Integrated Cross-Border Law Enforcement
IV. Critical Infrastructure and Cyber Security

In order to advance the Beyond the Border Action Plan in 2012, Canada and the United States:

- *Developed and released the Joint Statement of Privacy Principles to inform and guide information sharing under the Beyond the Border Action Plan;*
- *Achieved mutual recognition of our respective air cargo security programs for passenger aircraft, eliminating the need for rescreening except for cause;*
- *Initiated a joint entry/exit pilot project at the land border, starting with thirdcountry nationals and permanent residents, whereby the record of entry into one country is shared and becomes the record of exit from the other country;*
- *Developed an Integrated Cargo Security Strategy to address risks as early as possible associated with shipments arriving from offshore based on informed risk management and initiated pilots to validate and shape the implementation of the strategy;*
- *Initiated a one-year sector-based pilot project that provides for advance review* and clearance of official certification and alternative approaches to import inspection activities;
- Developed a detailed operational model for the upcoming deployment of the truck cargo facilitation pilot project;
- Developed a land border traffic management guide to manage traffic in the event of an emergency;
- Commenced the first cross border Regional Resilience Assessment Program project to improve the security and resilience of cross-border critical infrastructure;
- Released a joint Cyber security Action Plan;

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- Expanded and enhanced the trusted traveler program NEXUS by providing additional benefits to members such as access to expedited passenger screening lanes at airports in Canada and Transportation Security Administration (TSA) Pre √ ™ lanes in the United States;
- Conducted consultations to facilitate cross-border business travel and implemented various improvements;
- Announced regularized Shiprider operations; and
- Developed a joint Border Infrastructure Investment Plan to ensure a mutual understanding of available funding for targeted projects and the schedule, scope, and responsibilities for those projects in consultation and coordination with all applicable local, state or provincial and federal stakeholders.

Several initiatives including the harmonization of trusted trader programs, the full implementation of an entry/exit program at the land border, the negotiation of a preclearance agreement for the land, rail, and marine modes and an update to the existing preclearance agreement for the air mode are currently underway.

To access the full Beyond the Border Implementation Report, December 2012 go to: http://www.whitehouse.gov/sites/default/files/docs/btb_implementation_report.pdf

Customs Issues Guidance for Claiming Drawback for Goods Damaged or Destroyed by Hurricane Sandy

U.S. Customs and Border Protection (CBP) has issued information for importers who wish to file drawback claims for imported goods that were damaged or destroyed by Hurricane Sandy. If duties and taxes were paid and the goods are either exported or destroyed, the goods may qualify for a duty drawback refund under 19 U.S.C § 1313(c).

The importer will be required to provide documentation to CBP with details about the condition of the merchandise, as well as any insurance claims filed. Please note that if the importer has been reimbursed for duties and taxes via an insurance claim, the merchandise is not eligible for drawback.

CBP will waive the requirement to file a CBP Form 7553, Notice of Intent to Export or Destroy, as long as the importer provides detailed supporting documents showing the movement of the merchandise from import through to its ultimate exportation or destruction. This documentation must include the submission of any comprehensive insurance claim filed by the claimant which indicates to CBP that duties and taxes were not included in the claim, as well as third-party destruction documentation which demonstrates to CBP that the merchandise was completely destroyed and will no longer be an article of commerce. All drawback claims which are submitted to CBP should be clearly marked as "Hurricane Sandy" filings to allow for acceptance of the claim with these special requirements.

For questions regarding these procedures, please contact the New York Drawback office at 973-368-6950 or Laurie Dempsey, Branch Chief, Entry, Summary, and Drawback at laurie.dempsey@dhs.gov.

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FDA to Accept Electronic Submission of Private Laboratory Reports

The Food and Drug Administration has advised that it will accept private laboratory analytical results in electronic formats.

It is commonplace for importers of products subject to detention without physical examination (DWPE) to submit laboratory analysis as testimony to overcome apparent violations. These laboratory analyses are typically provided in the form of third-party commercial laboratory (referred to as "private laboratories") analytical reports to demonstrate compliance with the Federal Food, Drug, and Cosmetic Act (the Act) and with current FDA regulations.

FDA will accept private laboratory analytical reports in electronic formats, as well as hard-copy forms. It is FDA's preference for private laboratory analytical reports to be submitted in an electronic format for greater ease and speed of processing.

Absent any other instructions from the FDA District handling the entry, submissions of testimony should be routed to the contact point(s) listed in the specific Notice of FDA Action referencing the detention of the entry/line.

FDA states that at this time ITACS is not an acceptable means of submitting private laboratory analytical reports. If and when future functionality allows for the submission of private laboratory analytical reports through ITACS, FDA will notify the importing community.

In the near future, FDA intends to automate its private laboratory analytical reports review processes. Once that is accomplished, FDA will be able to process private laboratory analytical reports submitted via electronic means in less time than is needed to process private laboratory analytical reports submitted in hard copy forms. Therefore, in order to avoid potential delays, private laboratory analytical reports should be submitted electronically.

All analyses conducted by private laboratories and the reports submitted for those analyses are expected to conform to the guidance found in FDA's ORA Laboratory Manual, Volume III, Section 7, "Private Laboratory Guidance", found at:
http://www.fda.gov/downloads/ScienceResearch/FieldScience/LaboratoryManual/UCM092191.pdf

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TRANSPORTATION UPDATE

January 2013 Update

INDUSTRY NEWS:

Weak Demand Slows Chinese Export Growth

Due to the weak demand from western partners in Europe and the U.S., China has been experiencing a slowing demand for Chinese goods. For the past few years China has been undergoing rapid growth in its exports, reaching growth of 11.6% for the month of October. That number has floundered to a 2.6% growth for November.

China has yet to release its official export targets for 2013. Due to the rapid decline in their exports, analysts predict that the new Chinese Government will most likely give modest numbers which would be 10% or lower than last year's targets.

With the world markets so entangled, the lack of Chinese exports into Europe and U.S. will have a ripple effect, distressing stakeholders worldwide. Many providers including ocean carriers, ports, trucking, and rail carriers that vastly depend on Chinese imports and exports will likely feel the strain.

The majority of growth in exports, Chinese economists argue, has been fueled by government spending on large infrastructure projects. The rail system in China has had a significant facelift. Even though the infrastructure sector has seen major growth, not much can be said about other sectors. Manufacturing and housing construction have seen reduced momentum.

Agreement Reached for New Intermodal Rail Yard in Charleston

The South Carolina Department of Commerce, South Carolina Division of Public Railways and city of North Charleston, SC, finally reached an agreement that will enable plans for a new intermodal rail yard to be located at a former Charleston naval base.

Although the project has still not been finalized, the new agreement clears the way for development to move forward. Plans have been mired by disputes and litigation over the appropriate use of this publically owned land, pitting local, city, and state officials at odds over its use. The agreement was one of the last hurdles in the way for the development of the former Charleston Naval base.

Boasting deeper ports than Savannah, the port of Charleston and local officials believe that the new facility will help better position themselves for an increase in traffic due to Post-Panamax cargo in 2014. The recent agreement will allow an intermodal container transfer rail facility to give greater access to the port of Charleston.

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Shenzhen Streamlines Clearance Inspection for a Competitive Edge

Shenzhen has eased clearance inspection under new reduced restrictions in order to be more competitive. By cutting the entry and exit inspection, shippers can move cargo faster in and out of the port. About 1,400 companies in Shenzhen will benefit from these new procedures, which are based on annual export value. In November, there were 96 eligible shippers; under the new requirements an estimated 1,400 companies are now qualified for this "fast-tracked scheme."

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OCEAN FREIGHT:

Container Volumes Increase at the Port of Virginia Due to Hurricane Sandy

Due to Hurricane Sandy, the ports New York/New Jersey Ports were closed for several days and cargo was rerouted to other ports along the East coast. Some of this cargo was diverted to the port of Virginia which resulted in a 21% jump in container movement by handling 198,720 TEU's in November. With this major increase in container movement the port of Virginia announced this was their 2nd busiest month ever. Year to date, the Port of Virginia has experienced an 8.9% increase over 2011.

Hamburg Sud Offering New Direct Service along the Americas' West Coast

German ocean shipping company, Hamburg Sud, has announced they will have direct services linking North America, Central America, and South America. Ports of call include: Guayaquil, Ecuador; Balboa, Panama; Puerto Quetzal, Guatemala; Los Angeles, U.S.; Oakland, U.S.; Manzanillo, Mexico; and Paita, Peru. Hamburg will service this lane with five 1,850 TEU ships that will include reefer plugs. On January 4, 2013, the first sailing will begin from Guayaquil. In the U.S. the Cap Palliser vessel will set sail on January 20, 2013 from Los Angeles.

Evergreen Announces GRI for USA to Far East

Evergreen Lines has announced the following GRI's for all U.S. & Puerto Rico exports to the Far East (TPWB) effective January 15, 2013. The following GRIs will be applied to all origin ports and IPI points within the U.S. & Puerto Rico;

USD $160/20' Container or equivalent
USD $200/40' Container or equivalent
USD $200/40' High-cube Container or equivalent

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AIRFREIGHT:

Delta and Virgin Atlantic Announce Joint Venture

Delta Airlines and Virgin Atlantic Airlines have announced a joint venture to create an expanded and more competitive trans-Atlantic network. With this deal Delta Airlines will also acquire a 49% stake in Virgin Atlantic from Singapore airlines with Virgin Group maintaining its 51% majority stake in Virgin Atlantic. The joint venture will service passenger flights between the United States, Canada, Mexico, and the UK. This recent move is meant to strengthen the two airlines' network between North America and the UK, with a focus on the highly competitive New York – London market.

Stabilized Ocean Rates Could Lead to Increase in Air Freight

As many are experiencing, ocean carriers are struggling to bring rates back to profitable levels with a never ending round of rate increases. Mired by over-capacity and dwindling demand, ocean carriers have been hesitant to maintain increases, opting for rate reductions and further continuing the cycle. As 2012 draws to a close, and ocean carriers are announcing the next round of GRI's in the New Year at levels anywhere from $150 to $1,500, some are speculating a shift of cargo from ocean to air. This would be a reversal of a shift of shippers of marginal cargo that are taking advantage of bottomed out ocean freight rates. This trend will likely be realized if ocean carriers can maintain rate discipline in 2013 with their next round of GRI's, for a more sustainable market in the New Year. The Container Freight Derivatives Association reported that in December future prices were trading at a premium to spot rates, indicating future rate shifts.

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SAMUEL SHAPIRO & COMPANY, INC. NEWS

Shapiro Supports Hurricane Sandy Victims through New York's City Harvest

Samuel Shapiro & Company, Inc. recently supported City Harvest by making a donation on a per-card basis on behalf of each one of its customers. City Harvest, founded in 1982, assumes the mission to end hunger in communities throughout New York City through food rescue and distribution, education, and other practical, innovative solutions. City Harvest collects high-quality surplus food, roughly 115,000 pounds daily, from restaurants, Greenmarkets, wholesalers, grocers, farmers, and manufacturers, redistributing it to a network of nearly 600 community food programs. Their financial support comes almost entirely from individuals, private foundations, and corporations. City Harvest is also working to help meet the needs of Hurricane Sandy victims. In addition to daily deliveries to soup kitchens and food pantries across the five boroughs, City Harvest has been making emergency food drop-offs to Staten Island, Coney Island and Red Hook in Brooklyn, Breezy Point and Rockaway in Queens, and Manhattan.

Shapiro has been providing holiday donations on behalf of its customers, in lieu of traditional gifts, for the past 4 years. Before 2012, the company supported St. Jude's hospital, through its holiday card program, in its mission to advance cures, and means of prevention, for pediatric catastrophic diseases through research and treatment. This year, due to the tragedy and impact of Hurricane Sandy, the company was compelled to support City Harvest in its efforts. The disaster struck close to home for the international business industry with the most damage and delay at popular New York/Newark ports and airports, where Shapiro also happens to operate one of its branches.

Samuel Shapiro & Company, Inc. has been involved in philanthropic work since its early beginnings and incorporates charitable activities throughout the year. In November, the company's Baltimore office collected and donated 26 food boxes weighing a total of 623 pounds, in addition to a monetary donation, to the Maryland Food Bank, an affiliate of Feeding America. Shapiro is also currently expanding its philanthropic work with the creation of a Humanitarian Services Committee focused on providing Customhouse brokerage and freight forwarding services to charitable institutions.

"Giving back to the community is one of our corporate values," said Margie Shapiro, President & CEO, Samuel Shapiro & Company, Inc. "This initiative not only makes a direct impact in our community but also honors our customers, who have always supported our strong sense of duty."

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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 Kayla Travaglione, Senior Import Account Coordinator in Philadelphia, and Ellen Sandy, Logistics Specialist in Baltimore, for their 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.

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