Shap Talk

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In this issue:

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TRADE NEWS:

Importers & Exporters, ALERT!! HTS and Schedule B Measures Will be Updated in 2019

Under the Trade Facilitation and Enforcement Act of 2015 (TFTEA), also referred to as the New Drawback Law, changes will be made to all HTS and Schedule B numbers for all units of measure currently indicated with an "X".

An "X" appearing in the column for units of quantity means that no quantity (other than gross weight) is to be reported. All tariff numbers with a quantity measure of "X" will be replaced with an actual unit of measure to be used by Customs and Border Protection (CBP) to facilitate drawback claims.

Here's what we know thus far:

- CBP will soon issue a Cargo Systems Messaging Service (CSMS) message and "a one pager" explaining the upcoming changes.
- Changes will be evident for the units of measure in the 2019 Harmonized Tariff Schedule and the 2019 Schedule B.
- Tariff numbers that are dutiable will be changed first, followed by all other HTS and Schedule B numbers with everything complete by 2020.
- It is expected that in the CSMS message, there will be a link to all of the units of measure and their respective changes.
- If the specified units of quantity do not appear on your commercial invoice, Shapiro will be asking for additional information in order to submit the correct units of quantity to the Automated Commercial Environment (ACE).

Shapiro is actively monitoring the situation and will provide updates once they become available. In the meantime, please reach out to compliance@shapiro.com with any questions.

The Benefits of the Miscellaneous Tariff Bill

Amid additional duties reducing companies' profitability, trade wars generating industry-wide uncertainty, and ever-changing technology and regulations that force importers to adapt at the speed of light, there's finally some relief! On September 13, 2018, President Trump signed the Miscellaneous Tariff Bill of 2018 (MTB) into law, which amends the Harmonized Tariff Schedule (HTS) to suspend and reduce tariffs on 1,660 products.

MTB's duty suspensions and reductions are effective for goods entering the U.S., or withdrawn from a warehouse for consumption on or after October 13, 2018. This deadline is 30 days after the date of the enactment and the bill will remain in effect until December 31, 2020.

Though this news comes with an expiration date, importers will have the chance to claim duty suspensions and reductions for the general (column 1) rate of duty. But what does that mean? It means that if an item is eligible for the privilege, only the regular duty rate will be reduced or eliminated.

It is worth mentioning that duty reductions or suspensions do not depend on the country of origin and are granted based on the composition and description of the product, rather than the HTS number. For an item to be eligible for MTB privileges, it must meet specific requirements provided in the description of the item.

In the example below, only green olives stuffed with minced pimiento, in brine, and presented in glass containers are eligible for MTB. Please note that not all the olives in this HTS 2005.70.25 subheading will be eligible for MTB. If they are presented in plastic containers, for example, MTB will not be applicable.

Regular Tariff	MTB Tariff	MTB Rate	MTB Tariff Requirement
2005.70.25	9902.01.07	0.0%	Olives, green in color, stuffed with minced pimiento, the foregoing in brine and presented in glass containers, other than place packed (provided for in subheading 2005.70.25)

Since approximately half of the 1,660 MTB-eligible items are produced in China, there is some overlap with Section 301 tariffs. Products imported from China that are subject to Section 301 can benefit from MTB's suspensions and reductions for the regular rate of duty, but can still remain subject to the 25% ad valorem rate of duty imposed by Lists 1 and 2, and 10% ad valorem rate of duty imposed by List 3 (Please note that the increase of List 3 to 25% in January of 2019 has been suspended until March 1, 2019).

Other trade remedies such as Section 232 (Steel and Aluminum) and Section 201 (Safeguards Investigations), or even ADD/CVD will still apply.

Are you having trouble deciphering the Miscellaneous Tariff Bill? Are you unsure if your product is eligible for the privilege? Please contact us at compliance@shapiro.com and we will be happy to assist!

Advance Electronic Manifest Required for De Minimis Shipments Beginning January 1, 2019

Customs and Border Protection (CBP) announced, via CSMS 18-000656, a new requirement effective January 1, 2019 mandating that all commercial truck shipments containing Section 321 merchandise file an advance electronic manifest in accordance with the guidelines specified in the Trade Act of 2002.

Recently, there has been a significant growth in the amount of shipments being manifested and released under Section 321. This growth, which has CBP questioning its previous practices, is due in large part to the drastic increase in E-Commerce marketplaces and transit, the tariff-laden import environment (many shippers attempt to circumnavigate the tariffs via Section 321) and, last but not least, the increase in De Minimis value from $200 to $800.

During the implementation of the Trade Act of 2002, shipments qualifying for Section 321 release were exempt from the electronic manifest filing. However, CBP noted that the lack of an electronic manifest eliminated their ability to conduct a risk assessment and perform advance targeting within the Automated Targeting System (ATS), which resulted in slower processing times and longer wait times.

There are multiple ways to submit a Section 321 manifest, according to CBP officials. Companies not utilizing the provided portal will need to hire a service provider or have an electronic data interchange (EDI) system in place to submit the information.

On November 26, 2018, CBP began a phased implementation period for non-compliance with conveyances being referred to secondary for processing. Starting January 1, 2019, carriers who fail to comply with the electronic manifest requirement will be issued an initial fine of $5,000, with subsequent offenses carrying a heftier $10,000 fine.

For additional information concerning the electronic filing of truck manifests in ACE please contact Amy Hatfield.

Section 301 List 3 Tariffs to Remain at 10% for an Additional 90 Days

Section 301 list 3 tariffs on Chinese imports, which were set to increase from 10% to 25% effective January 1, 2019, will now remain at 10% for an additional 90 days as a result of fruitful talks between Chinese President Xi Jingping and President Trump at the G20 summit in Buenos Aires.

The catalyst for this brief truce appears to be China's willingness to more seriously examine and appropriately amend its trading practices. As part of this 90-day deferral, China has agreed to significantly increase its purchase of U.S. agricultural and industrial goods, though specific quantities have yet to be defined. They have also agreed "to sort out and manage fentanyl substances in categories, and to start the adjustment of relevant laws and regulations."

Under the agreement, China will also commence negotiations with the U.S. that will address its longstanding practices related to the transfer of intellectual property and cybersecurity. The U.S. views China's current practices as both a threat to national security and a threat to economic prosperity.

While this weekend's news is a positive step forward, here are a few aspects of the trade war to keep in mind:

- President Trump has already made numerous comments implying that the duties on List 3 could easily escalate to 25% should China not make enough progress during this 90-day moratorium. While President Trump's statements could goad China into quicker action, it doesn't bode well that many of the milestones China would need to achieve over the next 90 days are still undefined.
- Despite the brief reprieve for List 3, Lists 1 and 2 are still very much active with the continued imposition of 25% duties on affected goods imported from China. At this time, it is unclear if tariffs on list 1 and 2 items will ever be addressed in future talks.
- Although hundreds of thousands of U.S. importers filed exclusions with the U.S. Trade Representative (USTR) and provided comments about how these additional tariffs could cause substantial harm to their businesses, no change came about until President Trump was satisfied that he had gotten China to agree to altered trade practices. This suggests President Trump is only accepting China's acquiescence as a means of currency in this trade war.
- This truce follows directly on the heels of a USTR report which stated that China had not made any progress in regard to technology transfer and intellectual property rights, and in fact had taken "further unreasonable actions in recent months." If there is truth to the USTR's statement, then it will likely be very hard for China to make the kind of progress sought by President Trump in a 90-day window.

Overall, we believe hopeful optimism is the only route forward, but remain wary of suggestions that long-term peace has been established.

Importers Beware – ISF-5 Enforcements are Coming!

Effective December 17, 2018, U.S. Customs and Border Protection (CBP) will begin full enforcement of the ISF-5 filing requirement for Foreign Retained on Board (FROB) cargo. This will affect any foreign cargo that calls a U.S. port during transit.

As you are aware, Importer Security Filing ("10+2", "ISF") rules took effect in 2009. At that time, the importer was defined as the "carrier" and the party responsible for filing ISF. Since its original implementation, carriers have assumed the role of importer throughout the shipment process. Until now, ISF-5s were never fully enforced, likely due to confusion surrounding the legal language of the ruling.

Those days are over with CBP's announcement of a new enforcement date of December 17, 2018. They have also clarified that NVOCCs and booking agents are the parties responsible for ISF-5 filings.

What Are the Specifics for Filing and Who is Responsible?

- The filing must be completed at the lowest bill of lading level (house bill of lading if applicable) prior to loading. This would require the filing to be completed by NVOCCs and booking agents.
- This policy also applies to shipments when the cargo is diverted by the carrier, making it become Freight Remaining on Board (FROB). In this instance, the carrier or NVOCC (depending on who issued the bill of lading) is responsible for filing the ISF-5 and must do so within 24 hours from the announced diversion.

What Must Be Filed?

- Booking party
- Foreign port of unlading
- Place of delivery
- Ship to party
- Commodity HTSUS number

How Does This Affect Me (The Importer)?
As is the case with standard ISFs, it will now be just as important that you and your suppliers are aware of ISF-5 filing requirements to ensure accurate information is provided to your forwarder/broker/carrier as quickly as possible.

For FROB freight, Shapiro can assist if Shapiro routes your cargo. If Shapiro does not, please make certain your forwarder/NVOCC/BCO carrier complies with these requirements.

Shapiro will continue to adhere to our best practices in order to ensure timely and accurate ISF and/or ISF-5 filings.

As always, we are here to assist, so please don't hesitate to reach out to our compliance team (compliance@shapiro.com) with any FROB/ISF-5 related questions.

TRANSPORTATION NEWS

Supply Chains Faced Record Number of Disruptions in First Half of 2018

A report from supply chain visibility provider Resilinc referenced a record number of supply chain disruptions in the first half of 2018, with the company detecting a staggering 1,069 events globally (300 of which directly impacted supply chain continuity). This marked the largest number of Q1 and Q2 disruptions since the company began collecting data in 2010.

Supply chain disruptions ranged from planned events, such as mergers and acquisitions, to unplanned occurrences such as tariffs, price fluctuations, cyber attacks, and extreme weather. Extreme weather conditions proved to be the most impactful across the board, with a whopping 41 total events captured in the first half of the year alone. Meanwhile, tariffs were cited as having the largest growth rate. As we wrap up Q4, specialists indicate that the quantity of disruptive events is set to increase due to Chinese tariffs, hurricanes and wildfires.

Shapiro has developed a close partnership network of forwarding agents to support your global sourcing strategies. If you are considering new sourcing origins to support your growth, or mitigate your risk in relation to supply chain disruptions, contact our marketing experts today (web@shapiro.com) for further guidance.

Achieving Universal Harmony in the Era of Digital Shipping – Is it Possible?

As some of the major shipping lines embark on a joint pursuit to develop a universal block chain platform, critics of such a network argue that industry-wide standards are difficult, if not impossible to create.

Last month, members from each of the shipping alliances came together in an effort to harmonize digitalization in a unified, multilateral approach. This non-profit and neutral association joins in the quest to advance, protect and define the future role of technology in block chains. Together, its members hope to digitize the industry, transform documentation flows and set standards industry-wide.

Unlike the Maersk-IBM announcement of a collaborated effort to create a technological platform called TradeLens, this group has no plans to independently develop their own digital operating system. According to Andre Simha, CIO and spokesperson of MSC, they merely hope to “ensure interoperability through standardization” of the dissemination and access of documentation and information.

Who are the players?

- Maersk
- CMA CGM
- Hapag-Lloyd
- MSC
- Ocean Network Express (ONE)

Why is this relevant and beneficial for importers?

- Benefits customers and stakeholders by holding steamship lines to a common set of information technology standards
- Less industry red tape and enhanced visibility
- Provides relief for 3PL's in terms of capital and IT infrastructure needed to access data
- Allows for discussion and collaboration on the heels of a recent technological and innovation boom to establish common IT standards and governance
- Enables all parties to concentrate on values adding differentiation

The association hopes to begin operating in early 2019, pending any regulatory requirements.

This announcement follows on the heels of a similar one from early November, in which major shipping lines and terminal operators formed a separate alliance tasked with the development of a unified block chain platform known as the Global Shipping Business Network (GSBN).

If you have any questions regarding blockchain or the digitalization of shipping, please don't hesitate to contact us at web@shapiro.com.

Tariff-ying Air Cargo Peak Season

As of October, the peak season for air cargo is in full swing! Airlines such as Cathay Pacific, Air China and China Southern have all reported substantial year-over-year increases in volume for November and early December.

In addition to the usual spike from holiday traffic, the potential List 3 tariff increase from 10% to 25% spooked retailers into heightened and earlier shipment volume, as they attempted to get ahead of steeper import prices that, until recently, would have been effective January 1st.

The race to beat the tariffs had ocean demand far exceeding capacity, which in turn forced many shippers to rely on air, a modality they may not typically utilize. In fact, it's looking as if the peak season will even extend into March, following Trump's announcement at the G20 Summit of a 90-day delay of the potential 25% List 3 escalation. With an additional 3 months at a 10% rate, the race is still on and a continued peak in the ocean and air markets seems inevitable.

Do you need assistance shipping more during the 90-day extension? Shapiro can help! Reach out to web@shapiro.com with questions, or for more information on our services.

Power Could Shift Back to Shippers as Truckload Pricing Eases

Contrary to earlier speculation, analysts now expect truckload spot and contract rates to remain relatively flat as we move into 2019.

For months, importers feared the possibility of a whopping 5-8% increase in contract rates heading into the new year. However, these qualms remain at bay, at least for the moment, as rates are projected to rise only 1-5%. This data suggests that the current pro-trucker market may soon shift back in favor of shippers.

What's fueling these recent, lower-rate spread projections?

A combination of higher driver availability, a decrease in fuel prices, lower projected Q1 volumes and deceleration of freight growth due to recent tariffs threaten to upend the current market conditions. As we enter the new year, January and February shipment volumes will signal whether or not carriers have cause for future concern.

U.S. Federal Maritime Commission (FMC) Votes to Allow PierPass 2.0 at Los Angeles – Long Beach Terminal

The U.S. Federal Maritime Commission (FMC) voted to pass the PierPass 2.0 extended gates program just days before its November 19th implementation deadline. The announcement comes despite pushback, concerns and demands of transparency from the National Retail Federation (NRF), a group that represents many large beneficial cargo owners (BCOs).

Last October, the West Coast Marine Terminal Operators Agreement (WCMTOA) revealed its plans to replace the existing PierPass program in the Los Angeles-Long Beach terminal, which was originally enacted in 2005. The program aimed to change per TEU and per FEU traffic mitigation costs between daytime (8 am – 5 pm) and nighttime (6 pm – 3 pm) truck moves, as well as create an appointment system at the ports to regulate truck arrival and departure schedules in the terminal. The changes where intended to manage and mitigate existing congestion and traffic issues.

Here is a glimpse at the difference in traffic mitigation fees between the programs:

PierPass Congestion-Based Model - Cost of Traffic Mitigation Fees

	Per TEU	Per FEU
8am - 5pm	$72.09	$144.18
6pm - 3pm	$0	$0

PierPass 2.0 Flat Rate Model - Cost of Traffic Mitigation Fees

	Per TEU	Per FEU
8am - 5pm	$31.52	$63.04
6pm - 3pm	$31.52	$63.04

How will imports be affected?

The changes were widely supported by PierPass, a majority of BCOs, truckers, intermediaries and other port stakeholders, as the program's cost were spread more equally amongst shippers. However, like most regulations, there are those who stand to benefit more than others. Small and medium BCOs could save substantially in their traffic mitigation fee budget, as their trucks primarily move in the daytime window due to limitations in availability of nighttime staff. Whereas large BCOs will bear the brunt of the costs, as they utilize the 6 pm to 3 am shipment window more frequently.

Several port terminals nationwide will be closely analyzing the Los Angeles-Long Beach "experiment" to determine whether or not the model might be right for them. Additionally, the NRF and other critics will serve as watchdogs in the coming months. While the results of the changes remain to be seen, one thing is for sure; the program will face heavy scrutiny across the transportation industry.

Will this change affect you as an importer? Contact web@shapiro.com with your questions and concerns.

SHAPIRO NEWS:

Employee of the Month

As previously featured in Shap Talk, Shapiro 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 ***Genia Blades, Senior Import Analyst in Baltimore,*** for her outstanding performance and contributions.

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

Shapiro Freight Report

This high-level, monthly review of the U.S. import freight market provides key insights into the tumultuous world of international shipping. From carrier alliances to labor strikes, Shapiro covers the pertinent information logistics managers need to know. Check back monthly to ensure you don't miss key industry insights!

SLIP, SLIDING

Over the last two weeks, average spot rates have dropped about 3-6% per week. These reductions were certainly expected for the East Coast due to longer transits, requiring importers to ship in November to beat the purported January 1 tariff deadline.   However, the slippage to the West Coast is an interesting development, as importers could still ship in early December and expect to be in the country prior to...

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