Samuel Shapiro & Company, Inc.

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TRADE NEWS

National Export Initiative Recommendations

President Barack Obama issued an Executive Order earlier this year with the goal of doubling U.S. exports in the next five years (please see our April 2010 Shap Talk issue for a summary of the National Export Initiative (NEI)). In June, the Department of Commerce's Trade Promotion Coordinating Committee published a notice in the Federal Register requesting input from the public how best to meet this challenge. Comments were due by July 26, 2010. In mid-September, the Export Promotion Cabinet submitted its report to the President on the NEI. The report outlines the measures that will be needed to support the NEI.

The recommendations include:

- Exports by Small and Medium-Sized Enterprises (SME) to help SME's participate more actively and effectively in export markets through advocacy and promotion as well as export financing.
- Federal Export Assistance by improving the government's trade promotion programs.
- Trade Missions an important part of trade promotion and a practical step the government can take to encourage exports.
- Commercial Advocacy to help level the playing field on behalf of U.S. businesses competing for international contracts against foreign firms that may benefit from strong home government support.
- Increasing Export Credit by making more credit available, increasing outreach to build awareness of government assistance, and making it easier to use government credit programs.
- Macroeconomic Rebalancing to ensure that the global economy shifts smoothly to more diversified sources of economic growth.
- Reducing Barriers to Trade by improving market access overseas and enforcing trade obligations.
- Export Promotion of Services through traditional advocacy and trade promotion efforts.

The need for export reform is long overdue. Companies face many challenges to exports such as multiple licensing agencies, over-control of technologies, and multiple export enforcement agencies. Francisco Sanchez, Under Secretary of Commerce for International Trade, recently stated that "in order to have a robust U.S. economy, we must have a robust export economy." Did you know that only 1 percent of U.S. firms export while 95% of the world's consumers are outside of the United States? Ten percent of the U.S. GDP and 8.3 million jobs are supported by our exports. Exports support over a third of U.S. manufacturing jobs. 87% of the world's growth in the coming years will take place outside of the United States. China and Germany are the leading export nations. The NEI report states, "Strong, sustainable, and more balanced global growth is therefore crucial to U.S. export growth." Let's see what the U.S. can do to rebound our economy and reach the billions of consumers outside our borders.

CBP Announces C-TPAT Survey Results; Program Reaches 10,000 Members

On September 23, 2010, U.S. Customs and Border Protection (CBP) announced that the Customs-Trade Partnership Against Terrorism (C-TPAT) has surpassed 10,000 members. The C-TPAT program began in 2001 with only seven original members.

C-TPAT is a voluntary initiative designed by CBP that focuses on the development of cooperative relationships between Customs and the business community. The goal of this program is to strengthen the security of our borders as well as the security of the overall supply chain while facilitating the flow of legitimate trade. C-TPAT is the first and the largest anti-terrorism partnership program throughout the world and it continues to set the global standard for supply chain security.

CBP recently conducted a C-TPAT partner survey which had an estimated 50% response rate. At the time of the survey, C-TPAT had 8,166 partners with the following breakdown: 3,822 importers, 2,270 carriers, 1,400 service providers, and 674 foreign manufacturers.

Here are some survey results highlights:

- Approximately 42% reported that the benefits of being a C-TPAT member outweighed the costs
- Roughly 25% reported that the costs and benefits were about the same
- C-TPAT members that had been certified longer were more likely to report that the benefits of the program outweighed the costs
- Most members considered security awareness and increased supply chain security the most important intangible benefit of C-TPAT
- About 79% of responders had been in contact with their Supply Chain Security Specialist (SCSS) over the past 12 months with the vast majority reporting that their issue was addressed properly.

C-TPAT was designed so all businesses, regardless of size, could participate in global supply chain security. Roughly half of C-TPAT members companies are small or mid-sized, having fewer than fifty employees. C-TPAT importer partners are responsible for approximately 50 percent by value of all imported merchandise into the U.S.

Samuel Shapiro & Company, Inc. is here to assist you if you choose to become a C-TPAT member. We offer different levels of assistance - from providing a do-it-yourself guide to preparing and submitting your entire application. Shapiro has helped numerous importers become C-TPAT members who now enjoy the many benefits of participation. If you would like more information about C-TPAT and how Shapiro can assist you, please contact us at <u>compliance@shapiro.com</u>.

Expanded Sanctions on Imports from Iran

The Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (H.R. 2194) was signed into law on July 1, 2010. Effective September 29, 2010, importations of foodstuffs for human consumption (classifiable under HTS Chapters 2 through 23) and carpets, other textile floor coverings, and carpets used as wall hangings (classifiable under HTS Chapter 57 or HTS number 9706.00.0060) from Iran are prohibited. Imports of household goods and personal effects are allowed on or after September 29, 2010 provided they are imported in compliance with 31 CFR 560.201 and applicable CBP regulations.

More information may be found in the Federal Register notice of September 28, 2010 at <u>http://edocket.access.gpo.gov/2010/pdf/2010-24211.pdf</u>,

and on the Office of Foreign Assets Control Iran sanctions webpage at http://www.treasury.gov/offices/enforcement/ofac/programs/iran/iran.shtml

BIS Requests Comments for Trans-Trade Best Practices

The Department of Commerce's Bureau of Industry and Security (BIS) seeks public comments on a set of proposed "Best Practices for Transit, Transshipment, and Reexport of Items Subject to the Export Administration Regulations."

BIS is currently visiting companies and engaging in dialogue with industry regarding new transshipment principles and best practices that complement those already identified by BIS in its web guidance and industry outreach regarding export management and compliance.

http://www.bis.doc.gov/complianceandenforcement/emcp.htm

Just to make this perfectly clear, this is not the Office of Export Enforcement of BIS making these visits. These visits are made by Senior Trade and Industry, Policy and Compliance Analysts that want to understand how to curb Trans-Trade that may hurt our military, our citizens, and citizens of other nations. These visits are a means for industry to provide comments on how these best practices may affect your business.

Samuel Shapiro & Company, Inc. was already visited by BIS and discussed our comments, concerns and questions openly. We hope that all exporters read the Federal Register notice and comment or add to these Best Practices. At this point these are at the discussion level, but these comments will more than likely shape future policy so it is best to give your input to BIS now. BIS will consider all comments timely submitted before finalizing these best practices and publishing them in the Federal Register and on the BIS Web site.

For further information contact: Office of Technology Evaluation, Gerard Horner at <u>ghorner@bis.doc.gov</u> or (202) 482-2078 or Donald Creed at <u>dcreed@bis.doc.gov</u> or (202) 482-8341.

The following reflect existing and emerging transshipment best practices that guard against diversion risk. BIS is seeking comment on these and additional practices from the public based on experience. Comments must be received before October 18, 2010.

Best Practice #1. Pay heightened attention to the Red Flag Indicators on the BIS Web site (<u>http://www.bis.doc.gov/Enforcement/redflags.htm</u>) with respect to transactions to, from, or through transshipment hubs. When a company encounters a suspicious transaction, such as those outlined in the "Know Your Customer" Guidance and Red Flags (Supplement No. 3 to Part 732 of the EAR), it should inquire further and attempt to resolve any questions raised by the transaction.

Best Practice #2. An Exporter/Reexporter should seek to utilize only those Trade Facilitators/Freight Forwarders that also observe these best practices and possess their own export management and compliance program.

Best Practice #3. Exporters/Reexporters should have information regarding their foreign customers. In particular, a company should know if the customer is a trading company or distributor, and inquire whether the customer resells to or has guidelines to resell to third parties.

Best Practice #4. With respect to transactions to, from, or through transshipment hubs, Exporters/Reexporters should take appropriate steps to inquire about the end-user and to determine whether the item will be reexported or incorporated in an item to be reexported.

Best Practice #5. Freight Forwarders should inquire about the details of a routed transaction when asked by a foreign principal party in interest to ship to a country or countries of destination or ultimate consignees that are different from those provided by the U.S. principal party in interest.

Best Practice #6. An Exporter/Reexporter should communicate the appropriate Export Control Classification Number (ECCN) or other classification information (EAR99) for each export/reexport to the end-user and, where relevant, to the ultimate consignee.

Best Practice #7. An Exporter/Reexporter should report such ECCN or the EAR99 classifications for all export transactions, including "No License Required" designations to the Trade Facilitator/Freight Forwarder or enter them in the Automated Export System (AES).

Access the complete Federal Register Notice dated September 1, 2010 at: <u>http://edocket.access.gpo.gov/2010/pdf/2010-21843.pdf</u>

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GSP and ATPDEA Set to Expire December 31st

Once again, we are faced with the possible expiration of GSP and the Andean Trade Preference Drug Eradication Act (ATPDEA) on December 31, 2010, unless the programs are extended by Congress. The beneficiary countries for ATPDEA are Colombia, Ecuador and Peru. GSP will expire for the designated beneficiary countries with the exception of those listed under the African Growth and Opportunity Act (AGOA). We will keep our Shap Talk readers apprised.

Export Enforcement to Consider More Penalties against Individuals

At the Bureau of Industry and Security (BIS) annual update in Washington, David W. Mills, Assistant Secretary for Export Enforcement, Department of Commerce had some very interesting things to say about export enforcement that should make all exporters and employees of exporting firms take note of the seriousness surrounding his comments. As quoted from his remarks on the BIS website:

"We will continue encouraging voluntary self-disclosures, and we will minimize penalties in the VSD (Voluntary Self Disclosure) cases where appropriate. Moreover, if a company had a good internal compliance program in place before the violation and the violation was inadvertent, those will be considered significant mitigating factors. But, we will also be taking a harder line in other circumstances involving willful misconduct. While we have typically sought penalties against companies more so than individual employees, as Under Secretary Hirschhorn pointed out yesterday, this is about to change. Going forward, when a violation is a deliberate action of an individual, we will consider seeking penalties *against that individual* - including the denial of export privileges, fines and imprisonment. The same will hold true for a supervisor who is complicit in these deliberate violations by subordinates."

It appears that BIS means business and last year BIS did fine an individual separately in the amount of \$15,000 for making false and misleading statements to BIS Special Agents in the course of an investigation. This was in addition to the civil fine that was assessed to the company employing that individual. All employees responsible to carry out export procedures and their supervisors should carefully consider how they do their daily jobs to be sure they are in the compliance with all of the U.S. Export Regulations. If you are uncertain about export compliance procedures and need assistance, please contact us at compliance@shapiro.com.

All of the remarks made by David Mills can be found on the BIS website at: <u>http://www.bis.doc.gov/news/2010/mills_bis_update_remarks.htm</u>

Wooden Handicrafts from China

The United States Department of Agriculture (USDA) is proposing a change to its proposed rule published in the Federal Register on April 9, 2009 regarding the importation of wooden handicrafts from China. Wooden handicrafts from China may be imported provided certain requirements for treatment, issuance of a phytosanitary certificate, inspection, and box identification are met. USDA is modifying the heat treatment measures to require a temperature at the center of the handicraft of at least 60°C for a duration of at least 60 minutes, unless the handicrafts are under 6 inches in diameter and treated with methyl bromide. This treatment is necessary as wooden handicrafts often are not debarked. The proposed change to the proposed rule may be found in the September 23, 2010 Federal Register at: http://edocket.access.gpo.gov/2010/pdf/2010-23817.pdf

COMPLIANCE CORNER

Use of CBP Forms 28 & 29 in the Initiation of Investigations

On September 10, 2010, in response to a request made by the American Association of Exporters and Importers (AAEI) U.S. Customs and Border Protection (CBP) Assistant Commissioner Daniel Baldwin explained how CBP Form 28, Request for Information and CBP Form 29, Notice of Action, may be used to initiate CBP investigations vs. importers' abilities to make prior disclosures.

A prior disclosure made by an importer is considered valid if the violation is presented to CBP before or without knowledge of the commencement of a formal investigation of the violation. A prior disclosure can limit the importer's exposure to subsequent penalty actions.

AAEI's letter to CBP noted cases on Forms 28 & 29 where certain language was taken by importers to represent a commencement of a formal investigation and therefore would preclude the importers from making prior disclosures, such as the phrasing "this office is investigating the classification of" or "failure to provide information could lead to penalties under 19 USC 1592". Although general statements do not necessarily mean that a formal investigation has been initiated.

AAEI specifically asked CBP to confirm its procedures in relation to the use of Forms 28 & 29 in commencing an investigation as provided in the CBP Regulations under 19 CFR 162.72, which provides in writing from CBP the facts and circumstances that caused CBP to believe a violation has occurred, and written notification to the importer that an investigation has been initiated.

In response CBP stated that Forms 28 & 29 may be considered commencement documents for making a prior disclosure.

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A Form 29 can be used as a document for the commencement of a formal investigation, but a Form 28 by itself should not be considered or used as a commencement document. CBP also stated that there may be exceptions to the use of the Form 28 for which they will be issuing guidelines at a later date.

Although CBP's official policy remains encouraging the submission of prior disclosures, the trade is concerned that the use of said forms may prohibit the filing of prior disclosures. Unfortunately CBP has offered no guidance on how to determine if said forms indicate a commencement of an investigation or what language may be used to indicate said investigation vs. a routine inquiry or action.

Importers are encouraged to contact Samuel Shapiro & Co., Inc. if they receive any Forms 28 or 29 that may indicate language that suggests a commencement of an investigation.

CBP's Informed Compliance Publication on prior disclosures can be viewed at: http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp02 8r2.ctt/icp028r2.pdf

TRANSPORTATION UPDATE

October 2010 Update

INDUSTRY NEWS:

Extended Peak Season This Year?

It is looking more and more that someone forgot to inform American Importers that the peak shipping season is over. The latest reports from the USA's busiest container ports and intermodal facilities suggest that volumes picked up speed in August with no signs of letting up as we enter the fall season. Peak Season is expected to last into October; however rate levels have started to slide since the peak in early August.

This increase in business seems to defy the world forecasts that a fragile U.S. economy would make July the peak month for containerized imports, forcing carriers to endure a weak recovery and hope for better results next year. Industry experts built the assumption that there would be an early peak caused by importers beefing up their inventories, yet there seems to be no decline in demand for import cargo. Air carriers are also reporting very healthy bookings into the traditional September-October peak season.

The good news is that there are very few capacity problems being reported now as carriers began to increase capacity last spring and most shippers have reported that equipment shortages have also gone away. Railroads are also reporting few delays in their shipping schedules this peak season.

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Many companies report that they are keeping a tight rein on inventories after they have restocked recession-depleted shelves. Because of the lag time between orders being placed for goods and the actual shipment of the goods, the news of weak economic reports in mid-summer came too late to derail the traditional peak season. The effects of the recent bad news about the economy should be felt later in the fall. Prices have fallen somewhat in the past month but it remains to be seen if the current healthy volumes will keep the rates healthy for the carriers for the upcoming months.

Shanghai Finally Surpasses Singapore to Become World's Busiest Port

During the busy shipping month of August, Shanghai surpassed Singapore as the world's busiest container port. Current trends show that Singapore will continue to lose ground to Shanghai. From January through August 2010, Shanghai shipped 19.06 million TEUs which top the 19.01 million TEUs shipped through Singapore in the same period.

LA-Long Beach Imports Surge

Los Angeles and Long Beach have seen a 23.9 percent growth in August over the same month a year ago. This is one more example where the forecast that volumes would drop after a "crest" in July was proven wrong. Both ports report that the momentum is not slowing down. The Peak Season months of September and October are expected to be better than originally anticipated which is good news for shipping lines that have seen rates drift lower in recent weeks.

Exports in the ports of Los Angeles and Long Beach are expected to pick up in the late fall and stay strong through the winter months. Agricultural exports are expected to be better than normal this year due to the especially poor harvests in our competing exporting nations.

India to Triple Port Capacity in the Next 10 Years

The Indian Shipping Ministry plans to augment the country's overall port capacity from the current 1 billion tons to 3.5 billion tons in the next 10 years. The Indian government plans to spend about \$12 billion to implement various capacity expansion projects and \$8 billion of this money is to come from the private sector.

Major public-private-partnership projects in the pipeline include a fourth container terminal at the port of Nhava Sheva (Jawaharlal Hehru), which is the country's largest gateway, and a 4 million TEU deep water facility in the port of Chennai for which bids are being sought.

India has 13 major ports and nearly 200 minor ports located on its 4,600 miles of coastline.

OCEAN FREIGHT:

New DOT Ocean Hazmat Regulations to Start October 1st

New regulations by the U.S. Department of Transportation will go into effect on October 1, 2010, for all inbound and outbound hazardous materials ocean shipments.

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These changes impact shippers who use an emergency response information provider for their 24-hour emergency contact, such as Chemtrec. The new regulation requires shippers to provide either the company's name who contracted with the emergency response information provider or the contract number. This change is designed to preserve the effectiveness of these arrangements by providing accurate and timely emergency response information in the case of an accident.

If an importer or exporter is using its own phone number as the 24 hour emergency contact number, no contract # is required, but the company name must be shown with the phone number.

Exporters planning on shipping any hazardous materials after this date should make sure their hazmat declarations are updated to include this data. Failure to report this information will result in sailing delays.

Hazmat importers should confirm that their shippers overseas are in compliance with these new regulations and that they have all the necessary information they need to file complete and accurate information with the steamship line.

If you have any questions regarding these changes, please contact your local Shapiro representative.

Steamship Lines continue Quest to Get Out of Chassis Business

CMA has provided the following schedule of dates and ports where they will phase out providing chassis for their containers coming into and going out of the USA:

October 1, 2010	Mobile
November 1, 2010	Philadelphia, Baltimore, and Boston
December 1, 2010	Jacksonville, Charleston, and Savannah
January 17, 2011	Houston, Dallas, and New York
February 1, 2011	Memphis, Nashville, Kansas City, St. Louis
March 1, 2011	Los Angeles, Long Beach, Oakland, and Seattle

Yang Ming has announced that effective November 1, 2010 they will cease providing chassis in the following locations for both import and export containers:

South Kearny, NJ Buffalo, NY Miami, FL Tampa, FL Jacksonville, FL Pittsburgh, PA, Philadelphia, PA Baltimore, MD Worcester, MA

NSCSA Announces Second Port Call to Baltimore for Exports

Beginning with the Saudi Abha V.151 arriving Baltimore on October 27 (for import discharge), National Shipping Company of Saudi Arabia (NSCSA) will commence a second port call to Baltimore to load export containers, break bulk and ro/ro cargo to all destination ports. The New York call for imports has been deleted. This will decrease the transit time for Saudi Arabia, Middle East, and Indian Subcontinent ports by approximately 12-14 days for Baltimore, which is the highest volume port for the carrier.

General Rate Increases Announced for Exports and Imports

US Lines/ANL will have a GRI from US East Coast ports to Middle East, Red Sea, India Subcontinent, and Eastern Mediterranean ports of \$150/20 and \$240/40' effective October 7, 2010.

Yang Ming announced a GRI from U.S. East Coast ports to base European ports of Antwerp, Bremerhaven, Rotterdam, and Le Havre at 100/20 and 200/40 as of October 3, 2010. They will increase rates from U.S. East Coast ports to Santos Brazil by 75/20 and 150/40 on that same day. On October 1, 2010, Yang Ming will implement a GRI of 240/20, and 300/40 from US ports to all Asia ports.

The majority of carriers from Europe to the USA plan to implement a GRI of 300/20' and 400/40' effective October 1, 2010. Evergreen's GRI from Europe to the USA is 350/20' and 450/40' effective October 1, 2010. LCL cargo will see a 6 W/M GRI effective October 1, 2010 as well.

Some General Rate Increases Delayed or Cancelled

Hapag Lloyd recently announced that they will have no GRI from Asia to the USA, no GRI from USA to North Europe through 1/31/2011, and the proposed GRI from USA to Asia ports has been postponed until 11/1/2010 when a GRI of \$240/20' and \$300/40' is planned.

Baltimore Auto Imports Jump 72 Percent

The resurgent auto industry helped push vehicle imports through the Port of Baltimore to 250,515 units during the first eight months of this year, which is a 72 percent increase from a year ago according to the Maryland Port Administration. This increase was aided by increased imports by Ford with their new Ford Fiesta vehicles. BMW is also expected to bring another 50,000 cars per year through the port.

Container imports grew by 9 percent over last year in Baltimore and general cargo is also up 11 percent in the port over last year. For the fiscal year, general cargo increased 26 percent over the year before to 6.7 million tons.

Atlanta Metro Growth Boosts Georgia Ports' Volume

The ports of Savannah and Brunswick, GA have received a significant boost in cargo in the last year from the five counties that make up metropolitan Atlanta. The Georgia Ports Administration (GPA) handled more than 2.63 million 20 foot equivalent container units in fiscal 2010, which is a 9.7 percent increase over the previous fiscal

year. Overall, the GPA had its best year ever for exports in the past year. Metro Atlanta represented \$8 billion in cargo values through the port of Savannah in this fiscal year.

AIRFREIGHT:

Polar Air Fined for Cargo Price-Fixing

Polar Air Cargo will pay a \$17.4 million fine to settle charges that they took part in a global conspiracy with other airlines to fix cargo pricing. This is the first time a fine has been levied against Polar in a series of antitrust investigations into allegations that a group of carriers conspired to manipulate fuel charges and other fees. Major carriers such as Lufthansa, British Airways, Qantas and others have faced billions of dollars of such penalties and several former cargo executives have been sentenced to jail terms in the United States. Polar Air Cargo LLC, an American airline based in Long Beach, CA, joined and participated in the conspiracy from at least as early as January 1, 2000 until April 30, 2003. Under the plea agreement, which is subject to court approval, Polar Air Cargo has agreed to cooperate with the Justice Department's ongoing antitrust investigation.

Cargolux and Asiana Add Trans-Pacific Freighter

Cargolux has added a fifth flight to its trans-Pacific service that the operator launched earlier this year, bringing more capacity into Asian markets that are seeing sharp gains in air cargo volumes. Cargolux's new 747-400 flight will operate from Singapore and Hong Kong to Los Angeles and then on to the carrier's main hub in Luxembourg. This service joins four other Cargolux flights launched in April out of Hong Kong to Chicago and New York.

Asiana has scheduled a new freighter service from Seoul to Atlanta which will add 25 jobs and \$24 million in economic impact to the Atlanta Hartsfield-Jackson International Airport. The Atlanta airport now has 14 freighter operators.

These new flights come amidst a strong recovery in air freight demand this year, particularly out of Asia. Airfreight rates have retreated somewhat this summer due to increased capacity in the market.

Korean Air Cargo Revenue Leaps on Technology Sector

Korean Air's cargo revenue has jumped 86.4 percent in the 2^{nd} quarter. Korean Air is the world's largest international air carrier and they said that the gains were led by the growing demand for technology shipments such as smart phones. Korean's traffic has grown between 25 to 30 percent each month over the same period last year.

DOMESTIC

LTL Trucking and Truckload rates on the rise

Typically truckers ask for General Rate Increases (GRIs) in January, but his year it doesn't seem to be the case. Shippers can expect general rate increases from lessthan-truckload truckers in the coming month based on reports by several LTL executives claiming that the carriers have been struggling to raise rates to sustainable levels after they plummeted in 2009. The USA's largest LTL trucking operator, YRC Worldwide is already asking shippers for a rate increase. Excess capacity has made it difficult to justify the price increase but the truckers point to the GRI's given by the steamship carriers to make their businesses sustainable without going into the red.

Truckers in the full truckload business are pointing to tight capacity and therefore they are boosting rates 5 percent or more in the next month. More than two thirds of trucking companies surveyed predict truck pricing to rise further in the second half of 2010 and into 2011 as well. Smaller carriers have not seen their rates increase as much as the large ones.

Rail customers are restless

U.S. freight rail customers are beginning to challenge railroad rate practices, and the large majority would like to see Congress pass a regulatory reform bill to regulate spiraling rail rates. Shippers want a more forceful overhaul of rail competition rules and are growing increasingly discouraged at the problems in obtaining what they feel are competitive rail rates. Many shippers are filing rate case filings with the Surface Transportation Board to appeal for more competitive rates.

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 Russ Morash, Customer Service Representative, National Accounts Team, for his outstanding performance and contributions.

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

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.