
# "SHAP" TALK

## February 2011 Issue No. 106

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## TRADE NEWS

### No Update for GSP and ATPA

There has been no decision to date regarding the reinstatement of GSP. The program expired December 31, 2010 after Congress failed to pass a bill to extend it. We at Samuel Shapiro & Company, Inc. are following updates closely and will keep you informed of any changes or decisions.

All entries for GSP eligible merchandise are being flagged in the event that legislation is passed that will provide for retroactive GSP treatment. The flagged entries would then be liquidated with duty refunds.

We encourage importers to enlist their Congressperson to enact legislation for GSP renewal and cite any economic stress on their firms. Senator Jeff Sessions (R-AL) has been holding up GSP renewal in order to protect a sleeping bag manufacturer in his state which objects to GSP status for sleeping bags. The possibility exists that GSP may not be renewed until months from now.

Additionally, the Andean Trade Preference Act will expire February 12, 2011 for Ecuador and Colombia. This program was granted only a six week extension at the end of 2010.

### Food Safety Modernization Act Signed into Law

On January 4, 2011, President Obama signed into law the FDA Food Safety Modernization Act (FSMA). The new law should enable FDA to better protect public health by strengthening the food safety system through prevention as opposed to reaction, and through new enforcement authority. Here are some highlights:

- **Issuing recalls:** For the first time, FDA will have the authority to order a recall of food products. Up to now, with the exception of infant formula, the FDA has had to rely on food manufacturers and distributors to recall food voluntarily.

- **Conducting inspections:** The law calls for more frequent inspections and for those inspections to be based on risk. Foods and facilities that pose a greater risk to food safety will get the most attention. Within one year of enactment, the law directs FDA to inspect at least 600 foreign facilities and to double those inspections every year for the next five years.

- **Importing food:** The law provides significant enhancements to FDA's ability to oversee food produced in foreign countries and imported into the United States. Importers must verify that their foreign suppliers have adequate preventative controls in place to ensure safety, and FDA will be able to accredit qualified third party auditors to certify that foreign food facilities are complying with U.S. food safety standards. Also, FDA has the authority to prevent a food from entering this country if the facility has refused U.S. inspection. Administrative detention authority will have a more flexible standard.

- **Recordkeeping:** FDA will have access to records, including industry food safety plans and the records firms will be required to keep documenting implementation of their plans. Importer records regarding foreign supplier controls must be maintained for at least two years. High risk foods will have additional recordkeeping requirements.

- **Preventing problems:** Food facilities must have a written plan that spells out the possible problems that could affect the safety of their products. The plan would outline steps that the facility would take to help prevent those problems from occurring. Facilities must maintain records of monitoring.

An estimated 15 percent of the U.S. food supply is imported, including 50 percent of fresh fruits, 20 percent of fresh vegetables, and 80 percent of seafood. Provisions regarding imports are:

- **Importer accountability**: For the first time, importers have an explicit responsibility to verify that their foreign suppliers have adequate preventive controls in place to ensure that the food they produce is safe. (Final regulation and guidance due 1 year following enactment)

- **Third Party Certification**: The FSMA establishes a program through which qualified third parties can certify that foreign food facilities comply with U.S. food safety standards. This certification may be used to facilitate the entry of imports. (Establishment of a system for FDA to recognize accreditation bodies is due 2 years after enactment)

- **Certification for high risk foods**: FDA has the authority to require that high-risk imported foods be accompanied by a credible third party certification or other assurance of compliance as a condition of entry into the U.S.

- **Voluntary qualified importer program**: FDA must establish a voluntary program for importers that provides for expedited review and entry of foods from participating importers. Eligibility is limited to, among other things, importers offering food from certified facilities. (Implementation due 18 months after enactment)

- **Authority to deny entry**: FDA can refuse entry into the U.S. of food from a foreign facility if FDA is denied access by the facility or the country in which the facility is located.

Certain provisions are going into effect immediately, such as the new mandatory recall authority. Other changes will be phased in over time. FDA will be challenged to come up with the funding to fully implement this law. Previous versions of the law included fees for importers, but these fees were excluded from the final legislation.

**Proposed Revisions to the Foreign Trade Regulations: A Must Read for Exporters and Carriers**

All exporters and carriers should take note of the Census Bureau Notice of Proposed Rulemaking (NPRM) that impacts the export trade community. This NPR revises the Foreign Trade Regulations (FTR) to reflect new export reporting requirements. Specifically, the Census Bureau is requiring mandatory filing of export information through the Automated Export System (AES) or through AESDirect for all shipments of used vehicles, temporary exports, household goods, and modifications to the scope and timeframe for the AES post departure program. In addition to the new export reporting requirements, the proposed rule clarifies sections of the FTR. Many sections have proposed changes and it will mean additional information required from exporters in order to file the Electronic Export Information (EEI) in the Automated Export System (AES).

Some of the items this NPRM addresses are below and this is not all-inclusive. Please be sure to read the entire proposed rule in the Federal Register link noted below.

- Only approved commodities will be allowed to file post departure, and all elements must be filed within 5 days of departure.
- The Census Bureau will revoke post departure privileges of an approved U.S. Principal Party in Interest (USPPI) if the USPPI exports commodities not on the approved list.
- Split shipments must depart on the same day and the rules will apply to all modes of transport
- New filing requirements for reporting used self-propelled vehicles and household goods. These types of shipments will be required to be filed in the AES regardless of value or country of destination.
- An exclusion legend is not required on the bill of lading, air waybill, export shipping instructions, or other commercial loading documents.
- Clarification that a foreign entity must be in the United States at the time goods are purchased or obtained for export in order to be listed as a USPPI.
- Clarification that the Foreign Principal Party in Interest (FPPI) is the party that purchases the goods for export.
- Revision to include the requirement for the USPPI to provide the ultimate consignee type, if known, in a routed export transaction to the authorized agent.
- Revision to include the requirement that an authorized agent must provide the USPPI with the Internal Transaction Number (ITN) and date of export when the agent files the EEI in a routed transaction.
- To include carriers as a party to the export transaction.
- Clarification that the power of attorney or written authorization comes from the USPPI in a standard transaction.
- Clarify carrier responsibilities as it pertains to the FTR.

- Include the new filing timeframe requirement for used self-propelled vehicles as defined in 19 CFR 192.1 of U.S. Customs and Border Protection regulations.
- For Bureau of Industry and Security (BIS) license exceptions and non-licensed shipments to international waters, the filer must report the nationality of the person(s) or entity assuming control of the item(s) subject to the EAR.
- Carrier identification code that must be reported in the AES for vessel shipments.
- Clarify that the port of export for shipments by overland transportation is where the goods cross the U.S. border into Canada or Mexico, including transshipments through Canada or Mexico. In addition, language was added to address shipment by vessel and air involving several ports of exportation.
- Shipments where complete outbound manifests are required prior to clearing vessels going directly to certain countries and aircraft going directly or indirectly to those countries must be filed pre-departure.
- New filing requirements for goods rejected after entry into the United States. Those goods must be filed in the AES and the value to be reported as the declared import value.
- New filing requirements for reporting the address of the license applicant, the name and address of the end-user, the country of origin for goods of foreign origin and the license value.
- Ultimate consignee as known at the time of export shall be reported.
- The USPPI does not need to own or lease the facility where the goods actually begin the journey to the port of export.
- Foreign governments and foreign entities may not have access to the Electronic Export Information filed in AES.
- Failure to respond to fatal error messages prior to export of the cargo subjects the USPPI or authorized agent to penalties.

The comment period for the NPR will be 60 days from the publication date, which is on January 21, 2011 and will end on March 22, 2011.

The NPRM can be found at
[http://www.census.gov/foreign-trade/regulations/fedregnotices/index.html](http://www.census.gov/foreign-trade/regulations/fedregnotices/index.html)or
[www.gpoaccess.gov/fr](www.gpoaccess.gov/fr).

For more information, contact the Foreign Trade Division at (800) 549-0595, select option 3 for Regulatory questions.

**Food and Drug Administration's Transparency Initiative**

On January 7, 2011, the Food and Drug Administration (FDA) published its report on the steps it plans to take to improve transparency with regulated industry in an attempt to communicate its standards and expectations on regulated products such as food, drugs, cosmetics, and medical devices to allow industry to better understand how to work with the FDA.

The FDA intends to accomplish their transparency initiative over 3 phases named FDA Basics, Public Disclosure, and Transparency to Regulated Industry.

- FDA Basics: To provide basic information about the FDA and how it works.
- Public Disclosure: To provide proactive disclosure of information and data and how to make the information transparent to the public. Also to make a determination on whether previously undisclosed information would benefit the public and/or industry while maintaining confidentiality of trade secrets, etc.
- Transparency to Regulated Industry: To solicit comments from industry on ways to improve overall transparency.

The initiative includes the following action items, the list of which is not all inclusive:

- Launch a new website which provides information about FDA's regulatory processes and procedures. The website is currently available at www.fda.gov/FDABasicsforIndustry.
- The new website will allow the public to receive email notifications about Import Alerts that are published on the website. FDA will provide a listing of frequently asked questions pertinent to regulated products on the website. They will publish standard operating procedures and will list and describe the types of notifications it provides to the trade. They will provide any informational slide presentations performed by personnel with the public and/or industry. They will maintain a quarterly update of agency organizational charts and personnel changes on the site. Visitors can also provide feedback on how helpful the website is and can make suggestions on future topic additions.
- Inquiries or questions submitted on the website or via email will be responded to when practical within 5 business days or a receipt acknowledgement will be provided with an approximate time frame for the response.
- Upon the issuance of a final rule which imposes new or different obligations, FDA will provide outreach efforts to affected parties to improve implementation of the changes or requirements.
- FDA will work with Customs and Border Protection to allow filers, including Customs brokers, to correct data errors submitted to FDA on regulated imported products.

The FDA is also soliciting comments on 5 draft proposals to improve transparency. They include improvements to communicating agency procedural information, developing guidances, and import process procedures. The proposals include initiatives such as:

- Maintaining presentations given by FDA employees to external audiences on the website.
- The development of a web based system which would allow interested parties to easily determine import requirements and FDA product codes on regulated products.

- Disclosure to the industry concerning high priority guidances including a timeline of the entire process to the publication of the final guidance.

The draft proposals and the FDA report in its entirety can be viewed by visiting www.fda.gov. FDA is also soliciting comments on the proposals, how to prioritize them, and how to best meet their ultimate federal regulatory goals. Comments can also be submitted electronically at www.regulations.gov or by writing to the FDA Division of Dockets Management in Rockville, MD. Comments are due by 3/8/11.

**Changes Proposed to Foreign Trade Zone Regulations**

The Foreign Trade Zone (FTZ) Board has proposed sweeping changes to the FTZ regulations. Key revisions in the proposed regulations pertain to activity in zones in which an imported component is combined with one or more other components to create a different finished product. The current regulations divide such activity into two categories - manufacturing or processing, depending on whether the activity involves substantial transformation of the component - and apply procedures that can differ between the two categories. The proposed regulations would simplify use of the FTZ program through application of a unified concept – production - and provide a single set of procedures pertaining to that type of activity.

The proposed regulations would eliminate the general requirement for advance approval from the FTZ Board for all manufacturing (i.e., substantial transformation) activity. The proposed regulations would only require advance approval for production activity under specific circumstances (e.g., if a lower U.S. duty rate will be applied to the component through its incorporation into a downstream product in the FTZ).

Other significant areas of change in the proposed regulations pertain to the statutory requirements that each zone be operated as a public utility and provide uniform treatment to all that apply to use the zone. The current regulations do not provide grantees guidance on the practical implementation of these requirements. The proposed regulations would provide such guidance and would establish specific standards for compliance with those requirements

Additionally, the proposed regulations would implement the statutory authority to issue fines for violations of the FTZ Act or the Board's regulations through specific provisions targeting certain types of violations.

Finally, the proposed regulations contain a new provision allowing for the prior disclosure of violations of the FTZ Act or the Board's regulations. Disclosure of a violation to the FTZ Board prior to its discovery by the Board would generally result in the potential total fine for the violation (or series of offenses stemming from a continuing violation) being reduced to $1,000.00.

The proposed regulations would generally simplify and clarify requirements pertaining to FTZ use, while also helping to ensure compliance with specific statutory and regulatory requirements. The proposed regulations are intended to improve access and flexibility for U.S. manufacturing and value-added operations - particularly in most circumstances related to exports - and to enhance safeguards in order to avoid negative economic consequences from certain zone activity.

Comments on the proposed rule are due by April 8, 2011. The Federal Register notice may be found at:
http://www.gpo.gov/fdsys/pkg/FR-2010-12-30/pdf/2010-32940.pdf

**BIS Annual Report 2010**

On January 14, 2011, the Bureau of Industry and Security (BIS) issued its *Annual Report to the Congress for Fiscal Year 2010.* This report includes the following information:

- Regulatory Changes in Fiscal Year 2010
- Bureau of Industry and Security Organizational Structure and Administrative Information
- Summaries and Tables of Closed Export Enforcement Cases and Criminal Cases
- Number of Individual Firms, Transactions, Requesting Documents and
- Restrictive Trade Practices by Firm Type
- Approved Applications for Country Group D:1 and Cuba
- Report on Domestic Impact of U.S. Exports to Controlled Countries
- Agricultural Supply Tables and Information
- Export Control Reform Speeches and Fact Sheets

The complete 67 page report can be accessed from the BIS Home page at: http://www.bis.doc.gov/news/2011/bis_annual_report_2010.pdf

## TRANSPORTATION UPDATE

**February 2011 Update**

**INDUSTRY NEWS:**

**Asia's Increased Prosperity Drives U.S. Export Growth**
October 2010 was the best exporting month in the history of the USA-China trade with $9.3 billion in U.S. exports spurned by China's rising prosperity and rapid economic growth with no signs of slowing down. China in particular is growing its imports from the United States as its economy becomes more oriented towards domestic consumption as its middle class continues to expand.

China is now the third-largest export market for the United States after Canada and Mexico. U.S. Exports to China grew 34 percent in the first 10 months of 2010 to $72 billion according to Census Bureau figures. Nonetheless, the U.S. trade grew to $227 billion as imports gained by $57 billion over 2009 figures.

South Korea has become another hot spot for U.S. exports as the pending Free Trade Agreement with Korea expects to be a boon to U.S. industry. The Free Trade Agreement currently awaits U.S. Congressional approval. Exports to South Korea grew by 39 percent in the first 10 months of 2010 to $32.2 billion. South Korea is now the seventh largest U.S. export market. Once passed, the free trade agreement with South Korea will eliminate most tariffs and many more will be phased out over a five year period.

U.S. exports to Southeast Asia have gone up by 34 percent in the first 10 months of 2010 to $58 billion collectively. This is just under the total exports to China which has more than double the population of the combined populations of the Southeast Asian nations.

U.S. exports to India have grown by 16 percent in the first 10 months of 2010 however the total exports amounted to just $16 billion. To put in perspective how far India (with a population of 1.2 billion) is behind its neighbors, one only has to look to Singapore (with a population of 5 million) which imported $24 billion of U.S. goods in the same period of 2010. India has plans to spend $1 to $2 trillion in infrastructure spending beginning in 2012 so this should be seen as a huge opportunity for both U.S. investors and U.S. manufacturers. $110 billion of this money will go to developing ports and shipbuilding by 2020. India's middle class is growing which makes it a huge potential market for U.S. exporters.

Other growth areas in Asia for USA exports are Taiwan with 44 percent growth in the first 10 months of 2010 and Japan with a slower 18 percent growth in the same period. Of course there is still plenty of room for increased U.S exports and the high growth numbers in 2010 is partially caused by the sharp declines of world trade in 2009. Strong growth in exports to Asia is essential for the U.S. to reach President Obama's goal of doubling exports in the next five years. The U.S. cannot rely on the EU for the growth levels that are needed as its growth in the first 10 months of 2010 was just 7.5 percent.

**Consumer Spending and Export Growth spurs US GDP Increase**

The combination of higher consumer spending and export growth created a 3.2 percent growth in the U.S. economy in the fourth quarter to finish 2010 with a 2.9 percent growth. Exports of goods and services rose by 8.5 percent in the fourth quarter which outpaced consumer spending which grew by 4.4 percent in the same period.

The officials at the Federal Reserve still are concerned that the growth is not strong enough to make a dent in the unemployment rate in the U.S. that has been over 9 percent since May 2009. The government has reiterated its commitment to a $600 billion stimulus effort through the purchase of government bonds to keep the economy on pace to grow.

**Chinese New Year and Various Holidays are scheduled for February in Asia**

Expect delays in getting cargo out of Asia this month as factories and carrier offices shut down for the Chinese New Year related holidays. A summary of closures is as follows:

Hong Kong: Closed February 2 through February 6
China: Closed February 2 through February 8
Korea: Closed February 2 through February 4
Malaysia: Closed February 3, 4, and February 15
Singapore: Closed February 3, 4
Sri Lanka: Closed February 4, 16, 17
Taiwan: Closed February 2 through February 7
Vietnam: Closed February 2 through February 7
Thailand: Closed February 3 and February 18
Indonesia: Closed February 3 and February 15

**OCEAN FREIGHT:**

**Shanghai Displaces Singapore as World's Largest Port**

For the first time in history, Shanghai, China became the world's busiest container port in 2010. Bolstered by the high growth in Chinese trade to the world and the World Expo hosted by Shanghai in 2010, Shanghai handled 29.05 million TEUs in 2010, an increase of 16.2 percent over 2009, while the traditional front runner Singapore handled 28.4 million TEUs. Singapore lost its first place status for the first time since 2005.

**Bunker Fuel Prices on the Rise**

The emerging markets like Brazil, Russia, and India have created skyrocketing demands on oil reserves. It is expected that average crude oil prices will exceed $100 a barrel this year and stay there. As a result, ocean carriers have been quick to adjust bunker surcharges. The prospect of a weaker dollar against Asian currencies only aggravates the impact of rising oil prices by putting more pressure on bunker prices. As Bunker prices rise, this will affect operating costs for shippers.

**CSAV Adds Savannah to Asia Service**

CSAV recently added Savannah as a direct port of call on its Amex service between Asia, the Caribbean, and the U.S. East Coast. The Amex service has 10 vessels that range from 3500 to 4200 TEUs. The vessel port rotation is: Ningbo, Shanghai, Qingdao, Xingang, Busan, Manzanillo (Panama), Kingston (Jamaica), Savannah, New

York, Charleston, Port Everglades, Kingston, Cartagena (Colombia), and then back to Ningbo.

**Balanced Capacity in question for 2011**
Maersk is forecasting an even balance between vessel space availability in its fleet with shipping demand to be at very similar levels (around 9 percent). Maersk is not saying they can predict the level of growth in the market per se, but they feel confident that the difference between supply and demand will not be worrisome in 2011.

Other carriers have mentioned the same sentiment as Maersk, however ship owners and operators are banking on the future profitability of super-sized container ships and so they are delaying deliveries of additional vessels to avoid overcapacity and plunging rates. To keep the balance of supply and demand during the next two or three years the industry will need to see moderate trade growth and will continue slow steaming and will delay new ships to make this happen.

Some industry analysts are claiming that ocean container carriers are facing an overcapacity for at least the next 12 months as the supply of new ships outpaces cargo demand. The market is now carefully analyzing vessel utilization levels over the next two months so they can determine the direction of ocean freight rates after the Chinese New Year celebrations.

**Hamburg Sud Drops Chassis Service in Philadelphia and Announces Rate Increases**
Hamburg Sud announced that as of February 1, 2011, they will stop providing chassis to shippers moving containers through Philadelphia-area terminals. This move is part of an industry trend by ocean carriers to stop providing chassis at smaller U.S. ports, which is reported to gradually spread to all ports across the country. This will force truckers to find other sources for chassis to move containerized cargo.

Hamburg Sud will increase its Bunker Surcharges by $12 per 20' and $24 per 40' on March 6, 2011 to make their Bunker $329/20' and $658/40'. Also on March 6, 2011, Hamburg Sud will have a GRI (General Rate Increase) on all cargo moving from the United States to all East and West Coast South American ports at $300 per 20' and $600 per 40'.

**MSC Announces GRI from Indian Subcontinent ports to all USA ports**
Mediterranean Shipping Company has announced a GRI (General Rate Increase) of $200/20' and $400/40' from all ports in India, Pakistan, Sri Lanka, and Bangladesh to all USA ports effective February 17, 2011.

**MSC Announces New Piracy Risk Surcharge for South Africa to USA Services**
MSC announced a $130/20' and $260/40' Piracy Surcharge for all cargo moving from South Africa to the USA effective February 9, 2011.

**AIRFREIGHT:**

**Asia Air Cargo Rates Adjust to Capacity Gains**
Airfreight rates out of Asia have dropped slightly in recent months as air carriers have been restoring capacity to meet the improved demand. At the end of 2010 the global capacity reached a level where capacity growth outpaced demand. Much of this capacity growth has been absorbed in the days prior to Chinese New Year so airfreight shippers should expect to see a short rise in airfreight pricing in the days leading up to the Chinese New Year Holiday as capacity disappears and becomes the traditional backlog when Asia comes back from vacation. This backlog should be temporary so the rates are expected to adjust once again after the holiday season.

**DOMESTIC/TRUCKING:**

**US Officials Meet with Mexico Officials on Cross-Border Trucking**
The U.S. Transportation Secretary Ray LaHood expects to have an agreement to resurrect cross-border trucking between Mexico and the USA by the middle of 2011 after sending U.S. officials to Mexico to present his department's plan to the government there.

The Obama administration suspended President Bush's administration plan to allow Mexican goods to carry goods into the United States two years ago. Organized labor had applauded the plan because they claimed that Mexican truckers are not subject to the same stringent rules as American truckers. As a result, the Mexican government imposed more than $2 billion in tariffs on U.S. products. The largest impact was felt with agriculture shippers. Mr. LaHood expects that the final compromise with Mexico would involve lifting these tariffs.

## SAMUEL SHAPIRO & COMPANY, INC. NEWS

**Mary Beth Longerbeam Returns to Shapiro as Dulles Branch Manager**

Samuel Shapiro & Company, Inc. is happy to announce Mary Beth Longerbeam (formerly Ferrebee) has returned as the Branch Manager for its Dulles, Virginia office.

Longerbeam worked in the same capacity from 2002 to most of 2008 and now returns after working as Branch Manager at Kamino International Logistics and OHL. Prior to her work at Shapiro, Longerbeam worked at Danzas (now DHL) from 1990 to 1998 where she was promoted three times within her first three years and worked her way up to a Branch Manager position. She also worked at John S. Connor as Import Manager from 1999 to 2001.

In this position, Longerbeam's main objective will be to aggressively grow the branch's business and presence in the Washington, DC, and Virginia markets while maintaining outstanding levels of customer service. "I have the honor and distinct pleasure of rejoining the Shapiro family for a second time," said Longerbeam. "I am excited at the possibilities that are before me at Shapiro and was welcomed back to honestly feel as though I had never left the organization."

"Mary Beth lives and breathes Shapiro's values. She goes above and beyond the call of duty for our customers, and strives to serve as an extension of their businesses," said Margie Shapiro, Samuel Shapiro & Company Inc.'s President and CEO. "We are thrilled to have her back."

**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 Maryann Bradford, Import Coordinator - Baltimore, 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.