
# "SHAP" TALK
## August 2011 Issue No. 112

**In this issue:**

## SHAPIRO SEMINARS

**There is still time to register for Shapiro's Drawback Seminar!**

Samuel Shapiro & Company, Inc.'s popular summer seminar is scheduled for August 11th in Baltimore. Our customers and industry professionals are invited to join us for this sought-after event.

At this half-day seminar, you will learn about drawback and how the program can give importers and exporters the competitive edge by recovering up to 99% of duties paid on previously imported goods. We will cover the various types of drawback and the timeframes involved for your company to take advantage of refunds of duties. Our guest speaker will be from C.J. Holt & Co., Inc., the nation's oldest drawback provider and recognized expert in drawback law.

We hope to see you there!

**Date:**
Thursday, August 11th, 2011

**Time:**
8:30-9:00: Registration and continental breakfast
9:00-12:00: Seminar

**Cost (includes continental breakfast, seminar materials, and refreshments):**
$90.00 per person

**Location:**
Sheraton Baltimore City Center
101 West Fayette Street
Baltimore, MD 21201
Hotel telephone: 410-752-1100

**How to register:**
Online: http://www.shapiro.com/html/2011Drawback.html
Phone: 800-695-9465, ext. 290
Email: seminars@shapiro.com

## TRADE NEWS

**Getting Closer to GSP Renewal?**

The draft legislation to implement the Korea, Colombia, and Panama free trade agreements includes a provision to renew GSP through July 13, 2013, and to make GSP retroactive to the expiration date of December 31, 2010. The draft legislation also includes a provision to renew the Andean Trade Preference Act (APTA)/Andean Trade

Promotion and Drug Eradication Act (ATPDEA) through July 13, 2013, and to make the program retroactive to the expiration date of February 12, 2011.

Congress is not expected to act on this legislation before the August recess. The debt ceiling is preoccupying them currently. It is possible the legislation will be taken up in September.

**Proposed Increase to Merchandise Processing Fee**

The draft legislation for the Korea free trade agreement implementation includes a provision to increase the merchandise processing fee (MPF) from 0.21% to 0.3464% in the House version and 0.343% in the Senate version – an increase of over 60%. The cap will remain at $485.00 and the minimum will remain at $25.00 for formal entries.

The proposed increase is intended to offset the costs of the Korea FTA.

The MPF has been in place since the mid-1980's and is intended to cover the Customs costs of processing goods entering the United States. The MPF was last increased in 1995.

**BIS Update 2011 Conference on Export Controls & Policy**

The Bureau of Industry and Security Update 2011 Conference was jam packed with information and attendees. This sold out 3-day event highlighted many of the projects of the President's National Export Initiative.

The BIS Update provides a rare opportunity to speak to top employees at the Department of Commerce, Customs, and State Department. All of the U.S. government employees were more than willing to respond to questions or provide their number or email address for any question that could not be covered by a panel or roundtable. This spirit of cooperation is very refreshing and valuable.

Remarks from all the top brass at Commerce and a statement from the White House can be found on the BIS home page at: http://www.bis.doc.gov/. While you are visiting the BIS website, BIS is undergoing a website redesign and would love your comments. What would you like to see under an Export Portal or a drop-down menu from the homepage? Make your wishes known to BIS by commenting online at: https://www.bis.doc.gov/forms/redesignfeedback.html .

Session and panel presentations from BIS Update 2011 can be found on the BIS website at:
http://www.bis.doc.gov/seminarsandtraining/update2011/session_info.htm

1. Anatomy of an Investigation
2. Commodity Jurisdiction, State or Commerce

3. Deemed Exports and the I-129 Visa
4. Encryption Forum
5. End-Use Checks
6. Export Control Officer Country Briefing
7. Export Enforcement Panel
8. Export Management and Compliance Workshop
9. Interagency Panel
10. License Exception Strategic Trade Authorization
11. Missile Technology Policy and Licensing Issues and Trends
12. National Export Initiative
13. Regulatory Update
14. Sanctions
15. What's Driving Changes to the AES Regulations?

The roundtable discussions headed by government employees ranged from the Census Bureau Foreign Trade Regulations update on their latest Notice of Proposed Rulemaking, where there will be many changes to the initial writing, to BIS's Best Practices for Preventing Diversion, to Enforcement chats with various regions of the country. There were 35 roundtables in all. These were lively and informative discussions where understanding of certain practices or policies advanced cooperation from all sides of the table.

If you are interested in attending the next BIS Update or other BIS seminars, you can sign up on the BIS website for seminar notification at:
https://www.bis.doc.gov/forms/emailnotification.htm

**BIS Issues Proposed Rule for Items from the USML to be Listed on the CCL**

On July 15, 2011, the Bureau of Industry and Security (BIS) issued an important Notice of Proposed Revisions to the Export Administration Regulations (EAR): Control of Items the President Determines No Longer Warrant Control Under the United States Munitions List (USML).

As a result of the Defense Department-led review of the USML directed by President Obama, the Department of State plans to propose amendments to the USML to transfer certain items to the CCL and to make each of its categories more positive, and aligned with the CCL.

The discussion of the changes is grouped into the four broad headings listed below. Under each of the broad headings, the rule outlines the changes, which often touch on various parts or sections of the CCL and/or other parts of the EAR. This outline is not intended to be an exhaustive description of the provisions included in this rule, but is intended to help the public better understand the proposed changes. The public may wish to follow a similar structure when drafting comments on the proposed rule.

1. "600 Series"

2. Creation of ECCN OY521 as an Equivalent to USML Category XXI
3. Changes to EAR Definitions to Address the Movement of Items from the USML to the CCL, Including Adopting a Single Definition of "Specially Designed"
4. Other Changes to Assist in the Structural Alignment of the USML and the CCL

This rule is important to BIS and starting July 27, 2011, weekly conference calls with Assistant Secretary Kevin Wolf are being offered to help clarify provisions in this proposed rule. The calls will be held each Wednesday through September 7th from 2:00 to 3:00 p.m. EST. No reservations are required. Please send your questions to oesdseminar@bis.doc.gov, subject line: "Teleconference questions." More information on these free teleconferences can be found at:
http://www.bis.doc.gov/seminarsandtraining/teleconferences.htm

BIS also issued a Fact Sheet on July 18, 2011 titled "Plan for Controlling Items Transferred from the USML to the CCL," which can be found on the BIS website at: http://www.bis.doc.gov/news/2011/transfer_fact_sheet.pdf

Comments must be received by BIS no later than September 13, 2011. Submission information and further contact information can be found in the Federal Register Notice dated July 15, 2011 posted on the BIS website at:
http://www.bis.doc.gov/news/2011/fr_07152011.pdf

**Export Growth Back on Track to Meet Obama's Goal**

The Obama administration, National Export Initiative, will focus its energies on creating jobs giving a sagging economy a boost by doubling the nation's exports in five years.

Imports still outweigh exports to the U.S. and while the nation's current business model, that of shipping more and more manufacturing jobs overseas and then paying to ship the produced merchandise back into the country, continues to sustain American's voracious appetites as consumers of imports, the model will probably not disappear any time soon.

According to the July 12th Export-Import Bank report on May 2011 trade, "over the last 12 months, exports have been growing at an annualized rate of 16.6 percent, when compared to 2009, a pace greater than the 15 percent required to double exports by the end of 2014, which is the goal of President Obama's National Export Initiative."

This growth can be directly attributed to U.S. exporters, as well as the Ex-Im Bank credits, and Department of Transportation grants that provide low cost financing as well as infrastructure grants.

**Dairy Fee Reminder**

The new dairy fee will go into effect on Monday, August 1, 2011. This fee is based on the cow's milk solids content of the imported product and at a rate of $0.01327. The fee will be based on the CKG (content kilogram) of cow's milk solids.

Tariff numbers in HTS chapters 0401 to 0406, 1517, 1702, 1704, 1806, 1901, 2105 to 2106, 2202, 3501 and 3502 will be subject to the new fee. Further details may be found in our May Shap Talk issue.
http://www.shapiro.com/docs/ShapTalk/ShapTalk109.pdf

**CPSC Lowers Lead Limit in Children's Products**

As of August 14, 2011 the Consumer Product Safety Commission (CPSC) in accordance with the Consumer Product Safety Improvement Act of 2008 will implement the reduction of lead in children's products to 100 parts per million (ppm).

The CPSC concluded that the requirement should take effect as originally scheduled at the limit of 100 ppm based on the determination that they could not make a recommendation that the limit was not technically feasible with regard to products and product categories. The CPSC defines technical feasibility by the following criteria:

- A current product which meets the limit in a particular product category is commercially available.
- Current technology to comply with the limit is commercially available.
- Strategies and devices that companies will be able to adopt have been developed or will be by the effective date to allow compliance with the limit.
- Operational alternatives or best practices will allow manufacturers to become compliant.

The CPSC determined that the technical feasibility requirement was met by:

- Evaluating the technical feasibility of meeting the limit in varied materials such as glass, metals, and plastics.
- Reviewing economic impacts of reducing the limit.
- Considering the public's comments on topics such as variability in test results, economic burdens, and availability of materials.

Manufacturers, importers, retailers, and distributors of children's products are required to comply with the limit. Exceptions to the new limit include inaccessible and/or internal parts of products, particular components of electronic devices such as headphone plugs and other electronic connectors, and youth bicycles and motorized recreational vehicles, which are currently under a stay of enforcement for certain metal parts through December 31, 2011.

The CPSC has also stayed the enforcement of third-party testing and certification requirements on products through December 31, 2011 with the exception of metal components contained in children's jewelry.

The CPSC has urged Congress to pass legislation that limits the requirement to products manufactured after the effective date to avoid having shelved or inventoried toy products deemed illegal, and as a result pulled from the retail market, but to date no such legislation has been finalized.

The CPSC will also pursue some flexibility in evaluating testing results via an amendment which will allow an enforcement policy which recognizes the problem of possible testing variabilities due to the trace amount of allowable lead content at 100 ppm.

The CPSC drew the following conclusions in moving forward with the implementation of the requirement:

- Based on testing of products to date most products already comply with the reduced limit.
- Many importers and manufacturers are already testing products at the 100 ppm level in anticipation of the reduced level, and have found that a very small percentage tests over the limit.
- Compliant component materials are commercially available for manufacture.
- In products where higher lead contents serve functional purposes manufacturers have made the components inaccessible, and therefore exempt from the requirement.
- Intentional uses of lead in children's products have been sufficiently eliminated due to the current requirement of 300 ppm and the technologies that exist to ensure compliance with the lower limit.

Complete information on the reduced lead limit can be reviewed by visiting the CPSC website at www.cpsc.gov.

**Certificate of Label Approvals Processing Time**

Recently, Certificate of Label Approval (COLA) processing times have increased for a number of reasons, including steep growth in the number of applications received by the Alcohol and Tobacco Tax and Trade Bureau (TTB) and reductions in staff available to process applications.

As a result, TTB has seen a sharp increase in the number of inquiries that are received regarding the status of COLA applications.

In order to help manage expectations regarding COLAs, TTB is now providing current average processing times for each commodity (wines, distilled spirits and malt beverages) on its website and customer call center. Inquirers can check the average number of business days that it is taking TTB to respond to COLA applications.

Average COLA processing times may be accessed in the following ways:

Web site: [http://ttb.gov/labeling/index.shtml](http://ttb.gov/labeling/index.shtml)

You may also contact the customer service center at 1-866-927-2533. Press option 4 for malt beverage and distilled spirits labels and option 6 for wine labels.

Since responding to status inquiries diverts resources away from processing COLAs, TTB requests contact be made only if the current processing time for your commodity has been exceeded.

It is likely that COLA processing times will remain longer than experienced in the past so additional time should be built in for receiving label approval from TTB.

## TRANSPORTATION UPDATE

**August 2011 Update**

**INDUSTRY NEWS:**

**Import Cargo Volume Expected to Go Up By Double Digits This Fall**
Citing the "low level of inventories-to-sales ratios" that will keep import containers moving at suppressed levels this summer, Ben Hackett, founder of Hackett Associates, and Jonathan Gold of the National Retail Federation, in their monthly Global Port Tracker report the optimistic view that while "there will be no imminent boom or bust in volumes as we experienced in 2007 and 2010", import cargo volume will rise by double digits this fall.

According to Gold, retailers are managing their inventory levels carefully, but are confident that increases in import volume expectations for the fall are a clear sign that consumer demand will be evident in the fourth quarter.

While forecasts for the months of June, 1.31 million TEUs, and July, 1.36 million TEUs, are down by 0.8 percent and 1.3 percent respectively, projections for the month of August are 1.43 million TEU's and up by 0.6 percent.

Stronger increases are expected as retailers begin to stock up for the holiday season, with forecasts of 1.47 million TEU's, up 10 percent from last year, in September.

October's forecast is at 1.53 million TEU's up 18 percent and November at 1.41 million TEUs up 19 percent.

**U.S.-Mexico Cross Border Trucking Agreement**
The U.S. and Mexico have signed agreements resolving the dispute over long-haul, cross-border trucking services between the two countries. Mexico had imposed punitive duties in March 2009 on certain U.S. goods, but will now cut those duties in half and eventually eliminate them once the program is fully implemented. The retaliatory tariffs had ranged from 5 to 25% on U.S. agricultural and industrial products such as apples, certain pork products, and personal care products.

Mexican trucks must comply with all Federal Motor Vehicle Safety Standards and must have electronic monitoring systems to track hours-of-service compliance. The U.S. Department of Transportation will review the driving records of each driver and require drug testing. The Mexican drivers must undergo an assessment of their ability to understand English and U.S. traffic signs.

The agreement ensures that Mexico will provide reciprocal authority for U.S. carriers to engage in cross-border long-haul operations in that country. No word if U.S. driver records will be reviewed by Mexican transportation authorities, and if U.S. drivers will similarly undergo drug testing and assessment of their ability to understand Spanish and Mexican traffic signs.

**Clean Truck Program for Mid-Atlantic Ports**
The University of Maryland has announced the Mid-Atlantic Dray Truck Replacement Program to offer $15,000 to short-haul truckers utilizing the ports of Baltimore, Virginia, Wilmington, and Philadelphia, to help them replace their older vehicles. The four port authorities are contributing funds to the program which has a $3.3 million base grant from the U.S. Environmental Protection Agency. The program is based on similar efforts at west coast ports, Houston, New York, and New Jersey. Over 75 percent of the short-haul truckers operating at the port of Baltimore have already expressed an interest in applying for the program.

**OCEAN FREIGHT:**

**Renewed Agreement Strengthens Alliance between Panama Canal Authority Houston and Baltimore Ports**
Both the Maryland Port Administration and the Port of Houston Authority have renewed Memorandum of Understanding agreements with the Panama Canal Authority, (ACP), extending each of the organization's original agreements, with the ACP until 2016.

All parties are committed to continued collaboration via joint marketing, and the sharing of data regarding trade flow, markets, modernization and technology.

The Canal's expansion will have a major impact on the creation of jobs and increased economic development in the region, as trade between Asia and the U. S. Gulf Coast via the Panama Canal and the Port of Houston accelerates.

The Maryland Port Authority's renewed agreement with the ACP insures the Port of Baltimore's position as a major East Coast port with the capability of handling the transit of some of the largest container ships in the world. The Port of Baltimore's 50-foot berth is scheduled to be completed in August of 2012.

In 2014, projected year for the waterway's completed expansion, both the Panama Canal Authority and the Port of Houston Authority will celebrate their centennial.

**Carriers Begin Imposing Fees for Unfulfilled Space/Volume Service Agreements with Shipper and NVOCCs**

Ocean carriers have announced the implementation of contract agreements between shippers and carriers that would penalize either party who was not able to honor service guarantees or commitments to space allotments spelled out in their contracts.

According to Bob Sappio of American President Lines, customers who failed to meet space allotments, "within a window of tolerance," as well as carriers who failed to meet service guarantees, and space allotments, would be subject to a penalty as high as several hundred dollars per dry container.

The Maersk Line plan is similar. Expected to go into effect by summer 2012, John Nielsen, Maersk lines senior director in charge of management, network and product, outlined Maersk's "load and protection fee" which will compensate carriers when shippers fail to deliver booked containers to the point of departure, and conversely would pay a fee to shippers for booked containers not loaded onto outbound Maersk ships.

A 7 day grace period would be allowed for changes or cancellations before the booked departure from the first load port, after which the shipper would be subject to a charge of $100 per dry container and $ 500 per reefer container. Maersk would be under obligation to pay the fee amounts to the shipper for a container that did not load onto a scheduled ship.

Maersk will be finalizing its decision to implement the plan during third quarter utilizing the results of pilot tests conducted this year in Sweden, Germany and some of the Latin American Countries. The carrier will also be analyzing the results of pilot testing in the Pacific Northwest last year, when it imposed a fee of $10 per container for no-show or rolled export containers.

Exporters must be especially vigilant that they do not overbook or over-commit to the number of containers they are booking because they will be held responsible for paying the penalties caused by reserving space on a particular vessel that is not used. The carriers reason that overbooking prevents other exporters fully willing to pay for space on a particular vessel from securing bookings. Carriers cannot afford the loss of revenue if clients routinely book for space that they ultimately do not use because this space could have gone to another client that would certainly have used that space if they were allowed to place the booking.

**448 Container Ships to Be Added to an Already Saturated Market**
With demand growth slowed since the third quarter of 2010, and carriers bracing for a weak peak season this year, the supply of ships has surged and new vessel orders are coming in at what is considered an alarming rate.

According to container industry analysts from Alphaliner, four hundred and forty-eight container ships with a combined capacity of 2.78 million 20-foot equivalent units are scheduled for delivery in 2011 and 2012, with an even larger capacity scheduled for delivery in 2013.

The concern over this order wave is primarily due to an apparent surplus of capacity that continues to plague the industry, while projections of even higher order numbers increase.

Alphaliner's projections are for a total of 213 ships of 1.34 million TEUs in 2011, and 235 vessels of 1.44 million TEU's in 2012.

Some shipyards are still offering building slots for 2013 deliveries, even as orders have reportedly reached 1.73 million TEUs, compared with the previous record of 1.57 million TEUs delivered in 2008.

**APL Sets East Asia-U.S. East Coast Surcharge**
Singapore-based container carrier APL will impose a peak season surcharge on all cargo shipped from Asia and the Middle East to the United States and Canada, starting August 1st. The proposed surcharge will be $320 per 20-foot container, $400 per 40-foot container, $450 per 40-foot high cube container and $505 per 45-foot high cube container.

**Peak Season Surcharge Delayed Until August 15th by the Majority of Carriers**
Almost all major carriers have delayed the Peak Season Surcharge (PSS) until August 15th for shipments from Asia and Indian Subcontinent to U.S. ports. The amount to be imposed is $320/20', $400/40', $450/40'HC.

**PierPass Fee Increase**
The PierPass fee at Los Angeles/ Long Beach ports will increase $10 per TEU to $60 per 20-foot equivalent on August 1st.

**Ramadan Holiday Update**
In observance of the Ramadan holiday ocean carrier offices in Indonesia will have a work slowdown from August 22nd through September 2nd. The carrier offices will be closed from August 29-31.

**AIRFREIGHT:**

**Air Freight Rates Decrease**
Average international air cargo prices were relatively stable in May with a 0.7% drop. Airfreight rates were down 17**%** year-over-year, the seventh straight year-over-year decline.

**Air Freighter Fleet to Grow Worldwide**
The world's freighter fleet is expected to double from 1,760 to 3,500 aircraft in the next 20 years. In its 2011 Market Outlook, Boeing projected the air cargo market to grow by 5.6% annually through 2030, outpacing passenger growth of 5.1%. Freighter fleet additions will include approximately 970 new planes with a market value of $250 billion and nearly 2,000 conversions of passenger jets.

The International Air Transportation Association expects airline net profits in 20ll to total $4 billion, 78% lower than the $18 billion earned last year. Revenues for the airline industry will increase 7.9% in 20ll, but fuel expenses are also projected to increase 26.6% for the year.

## 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 Melissa Seay, Account Coordinator in Charleston, 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.