



“SHAP” TALK

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WE WANT TO HEAR FROM YOU!

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TRADE NEWS

Anatomy of a Customs Exam

The dreaded Customs exam! Two words we fear to hear, haven't planned for, and all too often do not adequately understand. What is it, who is responsible, and how is it done – these questions and more are the topic of this article. Exams are a common occurrence in today's security driven world, and will likely become even more common as U.S. laws evolve.

To begin with, there are several types of exams as detailed below:

- VACIS exam – commonly thought of as an x-ray exam, most Vehicle and Cargo Inspection Systems use a gamma ray imaging system to examine the container's contents without breaking the seal. Specially trained inspectors read the radiographic images the system produces. VACIS exams are usually done either at the pier (ship-side) or at another location in the port complex.
- Tailgate exam – Customs or another government agency opens the back of the container and looks in without handling the cargo. These exams are looking for anything suspicious that may necessitate an intensive exam.
- Intensive exam – this is the most intrusive exam, where the container is drayed to a Customs exam site and opened so the contents may be physically inspected.
- USDA exam – for general merchandise, USDA is usually looking for insect infestation or improper wood packaging. They may do either a tailgate exam or an intensive exam, depending on what they find. Various products and countries with a history of problems (for example, tile shipments from Italy) may be repeatedly flagged for USDA exam.
- CET exam - some exams are referred to as "CET" exams. CET is a Customs designation, referring to the Contraband Enforcement Team. When this team is conducting the exam, there is some suspicion of contraband being in the container.

Why me? Importers are getting more used to the frequency of exams, but it's still often a mystery as to why a particular shipment may be chosen. It is a fact that Customs does not disclose its examination selection process to the trade community. To do so would be a national security risk.

That being said, there are four major factors to an import transaction that tend to play a predominant role in determining the need for an exam – the shipper, the importer, the country of origin/export, and the tariff number. Although an exam could be completely random, these four factors are of prime interest to Customs.

It's worth noting that if you are a new importer, you should plan for your first few shipments to be examined until you have an established track record with Customs. Likewise, if you have a history of compliance violations, such as country of origin marking issues, your cargo is much more likely to be examined.

So how does it work? First, your customs broker electronically transmits the entry to Customs. If the shipment is designated for an exam, the broker receives a response in the system indicating a “manifest hold” is placed on the cargo. The manifest hold may later be overridden to an intensive exam.

At this point, whether the hold is just for a VACIS exam or an intensive, the parties at the port, including the carrier, port facilities, and Customs, control the examination process. The examination sites are pre-determined, and the drayage company is contracted by either the port or carrier to move the container to the site. In the case of “ship-side” VACIS exams, the container may not be moved at all.

The ship-side exams are handled relatively fast, usually being completed in a day or two. For the intensive exams, the process can take longer and is dependent on the port and current volume of inspections in queue. This is where C-TPAT can be helpful to an importer. For those importers that are C-TPAT validated, their containers get preferential treatment by being advanced to the front of the queue when they reach the site. For those importers that are C-TPAT certified or validated, if they have multiple containers on the pier and one is flagged for inspection, they are allowed to move the remaining containers off the pier to avoid demurrage.

Once the exam is completed, one invoice for the entire process is sent to the customs broker, who pays on behalf of the importer. Charges range from around \$150 to several hundred dollars, depending on the port and the type of exam being conducted. As one might expect, all charges for the exam are for the account of the importer. Consistent with other changes in the industry, the financial burden is placed on the parties buying and selling the cargo, not those moving or clearing it.

10+2 Update

In our January 2007 ShapTalk, <http://www.shapiro.com/docs/ShapTalk57.pdf>, we introduced you to the 10+2 program, an initiative borne from the SAFE Port Act where additional data elements are to be reported to Customs & Border Protection (CBP) prior to vessel loading overseas. The 10+2 elements are:

1. manufacturer name and address
 2. seller name and address
 3. container stuffing location
 4. consolidator name and address
 5. buyer name and address
 6. ship to name and address
 7. importer of record number
 8. consignee number
 9. country of origin of the goods
 10. commodity harmonized tariff schedule number (6 digits)
-
1. vessel stow plan
 2. container status messages

Customs initially anticipated the Notice of Proposed Rulemaking (NPRM) would be published in the spring of 2007, and then pushed it up to the summer. CBP

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Commissioner Ralph Basham announced at the WESCCON Conference on October 12, 2007, the NPRM is expected in January 2008. Customs assured the WESCCON attendees the 10+2 information is to be used for security and targeting purposes only and not for trade compliance. There are still many questions about the 10+2 program such as the mechanics of filing the information, prevention of duplicate filings, and access to the information. We are hopeful the NPRM will address these and more. Stay tuned to future issues of ShapTalk as we will be following this issue very closely.

Food & Drug Administration Advised To Step Up Efforts In Chinese Food Imports

On August 17, 2007, representatives from the House Energy and Commerce Committee traveled to China to determine whether food products from China could be imported safely into the U.S. Their conclusions were:

The Chinese food supply does not meet international standards and is responsible for very serious domestic and international poisoning outbreaks.

The Chinese government is determined to avoid poisoning outbreaks in international markets because of possible lasting effects on Chinese origin branded products and the embarrassment that said outbreaks cause.

The FDA is not capable under current operations and structure to handle the flood of Chinese and other countries' imports where the internal regulatory systems are lacking and/or insufficient. Specifically, the farming and food processing in China, the document counterfeiting industry, and the willingness of both Chinese and American companies to smuggle food products that don't meet quality standards are significant factors in requiring more stringent programs for inspection and lab analysis testing in China and at U.S ports of entry.

The committee suggests focusing on three existing systems as models for inspection and testing programs:

Japan has a system where Japan and China agree on authorized plants/manufacturers for each commodity shipped to Japan. The Chinese facilities are inspected yearly by Japan. The FDA could adopt a similar program that would also allow imports from companies that have obtained certification from the Chinese government to be sent electronically to avoid documentation counterfeit problems.

Hong Kong has a system that allows audits at Chinese facilities and sampling at the border. It inspects high risk food facilities for commodities such as meat, dairy products, etc. Due to the political environment and financial constraints, this model is unlikely to be viable at the present time.

The USDA is required to prohibit meat products from countries that do not have a system that is equivalent to U.S. standards. The standards could be applied to the 80% of the U.S. food supply that's regulated by the FDA, but under this model Chinese imports would be stopped indefinitely resulting in economic disruption.

The committee's report states that all three of the models represent systems that are safer than the U.S.'s current system. The oversight committee is scheduled to have hearings starting on October 11, 2007 to discuss food safety issues and new legislation.

Increased Penalties for Export Violations

On October 16, 2007, President Bush signed into Public Law (110-96) bill number S.1612 increasing penalties for violations of the International Emergency Economic Powers Act (IEEPA). These penalties will apply to any new violations.

A civil penalty of \$250,000.00, or twice the amount of the transaction, may be imposed on any person who attempts, conspires, causes or commits a violation under the Export Administration Regulations.

A criminal penalty of \$1 million and/or 20 years in prison may be imposed for any willful act to commit, conspire or aid or abet to violate the Export Administration regulations.

Importer Receives \$7.5 Million Penalty for Invoicing Scheme

A California fruit and vegetable importer, Inn Foods, was found by the Court of International Trade to have fraudulently entered goods into the United States by using provisional invoices and not declaring to U.S. Customs & Border Protection the actual price paid for the merchandise. Inn Foods was ordered to pay the lost duties and fees of nearly \$625,000.00, plus interest, and a \$7.5 million penalty.

The Mexican factura invoices submitted to Customs did not reflect the price ultimately paid by Inn Foods for the merchandise. Inn Foods would generate a new invoice with an adjusted value for payment to the Mexican supplier. Inn Foods maintained both the undervalued Mexican growers' invoices and the adjusted Inn Foods generated invoices in their accounting files. Even though the customs broker stressed to the importer the importance of a correct value declaration, Inn Foods confirmed to the broker that the values presented on the factura invoices were accurate. Inn Foods never informed their broker or Customs that the factura invoices did not contain true transaction values, nor did the importer file post entry documentation with Customs to amend the values. The court stated Inn Foods intentionally misled its customs broker and U.S. Customs as to the true value of the imported goods. The purpose of the undervalued invoices was to pay less duty, thereby defrauding the U.S. government.

We want to stress that the use of provisional invoicing is acceptable as long as Customs is aware of this fact at the time of entry, and that the final price is declared through post entry action – such as through a Post Entry Amendment or through the entry reconciliation process. If you have any questions, please feel free to contact us at compliance@shapiro.com.

*The text of United States v. Inn Foods, Inc., Slip Op. 07-142, may be found at:
http://www.cit.uscourts.gov/slip_op/Slip_op07/Slip%20Op.07-142.pdf*

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\$1 Billion Duties Collected via PMS in September

U.S. Customs & Border Protection (CBP) has issued a press release stating that for the first time, the \$1 billion mark has been surpassed for duty payments via periodic monthly statement (PMS) processing. A record \$1.04 billion was collected in September 2007. CBP has collected \$17 billion in duties since the inception of the PMS program. Currently 42% of duties and fees are collected via PMS.

PMS streamlines duty statement processing while also *positively impacting your cash flow*. You can have a once a month, *interest free* duty payment. This gives your company flexibility in managing the working capital required for duty payments.

With PMS processing, importers deposit duties on the 15th business day of the month following the month in which the goods are released. This means merchandise released on the first to the last day of the month can be scheduled for duty payment on the *following* month's Periodic Monthly Statement. This eliminates the need to process duty payments on a transaction by transaction basis.

The first step to paying your duties via Periodic Monthly Statement is to set up an ACH account with Customs. This is a very simple process. Once your ACH account is established, Samuel Shapiro & Company, Inc. can apply for PMS processing on your behalf. The only requirement is a continuous bond.

Contact us at compliance@shapiro.com and we will start you on your way to significant savings.

CBP press release available at:

http://www.cbp.gov/xp/cgov/newsroom/news_releases/10222007_6.xml

National Export Coordinator Advises 250 FBI Agents Now Trained in Export Control

On October 3, 2007, The Society for International Affairs hosted a business luncheon in Arlington, Virginia with Steven W. Pelak, the first National Export Coordinator for the U.S. under the Department of Justice.

Mr. Pelak is responsible for ensuring full coordination between the Justice Department and the many other U.S. law enforcement, licensing and intelligence agencies that play a role in export enforcement. Mr. Pelak receives regular progress reports from U.S. Attorneys' offices on the development of export control cases and has put an emphasis on education and training in export control. To date over 250 FBI agents are now trained in export control.

Mr. Pelak also mentioned that there will be increased coordination and communication with licensing agencies and other government agencies on export control issues. He mentioned that there will be more information coming out on

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district based task forces to investigate and prosecute export control violations. He expects these task forces to be set up in all large export metropolitan areas.

With better coordination at the top and a heavy emphasis on training and education, export control is more important than ever. Exporters must be aware of all regulations governing their products and stay informed to be certain they are not in violation of any U.S. export regulations.

Source: *SIA luncheon - Hyatt Regency in Crystal City on October 3, 2007. Samuel Shapiro & Co., Inc. in attendance.*

BIS Releases First List of Validated End Users for China

The Bureau of Industry and Security (BIS) has published a final rule amending the Export Administration Regulations (EAR) to list names of end-users in the People's Republic of China (PRC) approved to receive exports, re-exports and transfers of certain items under Authorization Validated End-User (VEU).

This rule is effective November 19, 2007. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

Please refer to Regulations.gov website for the list of Validated End-Users and information to make any comments:

<http://www.regulations.gov/fdmspublic/component/main?main=DocumentDetail&d=BIS-2007-0003-0001>

BIS Proposes to Make SNAP-R Mandatory

On October 19, 2007, The Bureau of Industry and Security (BIS) published a proposed rule to amend the Export Administration Regulations (EAR) to make SNAP-R mandatory. This proposed rule would require that export and re-export license applications, classification requests, encryption review requests, License Exception AGR notifications and related documents be submitted to the BIS via its Simplified Network Application Process (SNAP-R) system. This requirement would not apply to applications for Special Comprehensive Licenses or in certain situations in which BIS would authorize paper submissions.

Comments must be received by December 18, 2007. Please refer to the Regulations.gov link below for detailed information and links to comment on this proposed rule.

<http://www.regulations.gov/fdmspublic/component/main?main=DocumentDetail&d=BIS-2007-0002-0001>

CBP Issues Final Interpretive Rule Concerning Classification of Unisex Footwear

A final Interpretive Rule was issued, with minor changes, regarding criteria to be used by U.S. Customs and Border Protection (CBP) to determine whether footwear is

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considered to be “commonly worn by both sexes” (unisex) for tariff classification purposes under Heading 6403 of the Harmonized Tariff Schedule of the United States (HTSUS). This rule will be effective on October 22, 2007.

The purpose of the criteria set forth in this rule is to promote uniformity in the classification of the subject footwear, thereby ensuring that proper duties are collected. For several years the importing public has requested that CBP provide enhanced guidance for determining unisex footwear, since the rates of duty applicable to footwear “for other persons” (i.e., “unisex”) are about 1.5 percent higher than the rates of duty applicable to footwear for “Men, youths and boys.” Previously the standards employed for purposes of determining whether footwear is considered unisex had been developed and applied by CBP on an ad hoc, case-by-case basis. This approach, while effective in individual cases, had provided only limited guidance to the importing community and to CBP officers with respect to other import transactions involving different factual circumstances.

Following is the criteria that CBP will use, according to the final interpretation, to determine whether footwear should be considered to be “unisex” under Heading 6403:

- (1) Footwear in sizes for men, youths and boys will *not* be considered to be “commonly worn by both sexes” (i.e., “unisex”) if marked “MEN’S SIZE____”, “YOUTHS’ (or YTH) SIZE____”, or “BOYS’ SIZE____”.
- (2) Even if not marked as described in criterion 1, footwear in sizes for men, youths or boys will not be considered to be “commonly worn by both sexes” (i.e., “unisex”) if:
 - a. The importer imports the same style of shoe for women and girls, or;
 - b. Evidence is provided in the form of marketing material, retail advertisements, or other convincing documentation demonstrating that the same style of shoe for women and girls is available in the U.S. marketplace.
- (3) A style of footwear in sizes for males will not be presumed to be “commonly worn by both sexes” (i.e., “unisex”) unless evidence of marketing establishes that at least one pair in four (25 percent) of that style is sold to and/or worn by females.
- (4) A determination that footwear is “commonly worn by both sexes” will trigger “unisex” classification treatment that is applicable to all sizes.

*The CBP Final Interpretive Rule for classifying unisex footwear is available at;
<http://a257.g.akamaitech.net/7/257/2422/01jan20071800/edocket.access.gpo.gov/2007/pdf/E7-18588.pdf>*

TRANSPORTATION NEWS

Transportation Update – November 2007

FAR EAST

Peak Season rates will be extended through November 30th for most of the steamship lines from Asia.

Samuel Shapiro & Company, Inc. has direct service for LCL cargo from Hong Kong to Baltimore without the congestion of New York. Service moves on the MOL/HYUNDAI service and has very reliable transit time.

INDIA SUBCONTINENT

We have been advised by our some of our contract carriers of the following increase on exports:

Origin: USA (all points and ports)

Destination: India, Pakistan, Bangladesh, Sri Lanka (all points and ports)

Effective November 1, 2007 all TLI rates filed in this tariff, and all service contracts rates governed by this tariff, shall be subject to the following general rate increase applicable to all commodities (mixed and straight load):

\$100.00/20' \$200.00/40' container (all types)

Regrettably, we are required to announce that we have put this surcharge in our tariff as well.

Container truck movements from India's southern Port of Chennai have been affected by repairs after local authorities closed the regular exit road. The situation has forced DP World, Chennai's private terminal operator, to make special arrangements to re-route exiting truck traffic, considerably slowing down clearance of import boxes from its yard. This has resulted in a build-up of yard inventory.

MEDITERRANEAN

We have been advised by our some of our contract carriers in the Mediterranean region of the following General Rate Increases.

(Russia, Ukraine, Romania, Bulgaria, Kazakhstan, Moldova, Belarus, Armenia, Georgia, Tajikistan, Turkmenistan, Italy, Cyprus, Albania, San Marino, Slovenia, Egypt, Bosnia, Herzegovina, Syria, Serbia, Montenegro, Croatia, Turkey, Israel, Lebanon, Macedonia, Greece, Malta, Libya, Tunisia, Algeria, Spain, Portugal, Morocco, Andorra, Gibraltar, France.)

Effective 10/1/07 Mediterranean to USA will have a GRI

\$400.00/20' \$600.00/40'

Effective 10/1/07 Mediterranean to USA will increase BAF

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East Coast:
\$525.00/20'
\$1,050.00/40'

West Coast:
\$585.00/20'
\$1,170.00/40'

Regrettably, we are required to announce that we have put this surcharge in our tariff as well. Please note we are having discussions and negotiations to mitigate and will notify you accordingly.

Samuel Shapiro & Company, Inc. has direct service for LCL cargo from Italy to Baltimore without the congestion of New York. Service moves on the MSC service with very competitive rates.

SOUTH AMERICA

We have been informed by Mediterranean shipping that they will increase their Bunker as of November 19th to the following:

\$475.00/20'
\$950.00/40' or 40' HC
This is an increase from \$425.00/\$850.00

Evergreen Lines ended their call from Itajai, Brazil to the U.S. They will be calling São Francisco do Sul instead.

NORTHERN EUROPE

THE TRANS-ATLANTIC CONFERENCE AGREEMENT (TACA)

We have been advised by our contract carriers in the Northern Europe region that based upon the latest monitoring of fuel prices, TACA's Bunker Adjustment Factor (BAF), will be held unchanged for a further period of thirty days through, at least, December 15, 2007 at the following levels:

Traffic to/from and via:

Atlantic/Gulf Coast Ports	Pacific Coast Ports
\$607.00/20'	\$911.00/20'
\$1214.00/40' or 45'	\$1822.00/40' or 45'
W/M \$61.00	W/M \$91.00

With respect to Currency Adjustment Factor (CAF), the Tariff published level, based on the latest monitoring exercise, will be adjusted from 10% to 12% with effect from November 16, 2007 through, at least, December 15, 2007.

NORTH AMERICA

The terminal security fee (TSF) for the port of Norfolk has increased. Effective October 6, 2007 the TSF will be \$5.00/container. We are required to announce that we have put this surcharge in our tariff as well.

New York terminals will be raising certain charges on October 1, 2007. Demurrage charges for all container sizes will increase from \$98.00 to \$101.50 for the first 4 days, then \$145.00 to \$150.00 for the next four days and from \$295.00 to \$303.50 for 10 or more days.

The Norfolk, VA City Council plans to vote October 23, 2007 to restrict truck traffic on a major road that provides access to the Virginia Port Authority's main container terminal. A majority of the council has agreed to ban large trucks from Hampton Boulevard between 4 p.m. and 6 a.m. for a 100-day period starting in November. Large trucks already are banned from the boulevard at night. The proposed ordinance said that as truck traffic has increased during the past 15 years, the problems have grown "from merely causing inconvenience to threatening public safety and national security."

EXPORT

There has been an increase in the last year of exports from the US. There is the need now to book weeks in advance with the steamship lines. The reason is due to reduced capacity on routes that are either unprofitable or with insufficient return. Many steamship lines have taken ships out of the trans-Atlantic and trans-Pacific trades to put them on more profitable lanes such as Asia-Europe. Even if space is available, it can be hard to find the equipment to get loaded.

SAMUEL SHAPIRO & COMPANY, INC. NEWS

Samuel Shapiro & Company, Inc. Accepted into C-TPAT as Consolidator

Samuel Shapiro & Company, Inc. is pleased to announce our acceptance into the Customs-Trade Partnership Against Terrorism (C-TPAT) program as a consolidator. We have been a C-TPAT member as a licensed customs broker since April 2003. Our membership as a consolidator covers our status as an air freight consolidator, ocean transportation intermediary, and non-vessel operating common carrier (NVOCC), and underscores our commitment to securing the supply chain.

If you are interested in becoming a member of C-TPAT, please contact us at consulting@shapiro.com.

Shapiro's Global LCL Ocean Services

It is clear that in today's environment with security issues in the forefront that our customers have to be aware of who they are doing business with and how their cargo is being handled. We provide you with that peace of mind knowing that all your cargo is safe and secure (see the previous article on our recently awarded C-TPAT status as a consolidator).

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Samuel Shapiro & Company, Inc. is now offering our clients an LCL (less than container load) ocean freight program that provides one stop service from all global locations with direct container consolidations from over 100 locations to the USA.

These services provide our customers with supply chain visibility of their shipments from receipt of the cargo until delivery to the door. Our program will also provide the schedule integrity that will allow our customers to plan their processing or distribution in advance. Our sailing schedules are available on our website, www.shapiro.com, where you can view the upcoming sailings along with the transit times.

Our LCL Ocean Freight service also allows you to know your total transportation cost, including landing fees and inland transportation, in advance. Many importers today only know the ocean freight costs and are not aware of the auxiliary charges until after the freight arrives.

Samuel Shapiro & Company, Inc. is proud to provide this service to our customers. Please feel free to contact your local Shapiro account representative for more information on this program and our other transportation services.

Samuel Shapiro & Company, Inc. Named as “Fit Friendly” Company by Wall Street Journal

Each year health care costs continue to rise, becoming a burden for employees and for business. Companies all across America are taking strides with their employees to promote a healthier way of life. This year Samuel Shapiro & Company, Inc.’s Baltimore office joined the Start! program with The American Heart Association to help promote, educate and focus on health and wellness for our employees. Janell Rotella of our Accounting Department led the Shapiro Fit Friendly Program to guide us to our Gold Recognition and Fit Friendly plaque. She acquired pedometers, awarded prizes for the top walkers, and offered giveaways each week for the 21 participants. There were weekly health trivia games, weekly heart healthy recipes and a daily walking group. Overall the Shapiro Fit Friendly participants walked a total of 2,781,949 steps/1,390.98 miles in one month!

On September 25, 2007, Samuel Shapiro & Company, Inc. was mentioned in the Wall Street Journal as one of the top Fit Friendly companies that met the American Heart Association’s criteria for employee fitness. Shapiro employees were on hand for the Baltimore American Heart Association’s two mile walk at the Inner Harbor where Samuel Shapiro & Company, Inc. proudly received their Fit Friendly plaque. Our participation in the Fit Friendly program goes to the heart of our core values, having a strong sense of social responsibility and contributing positively to the communities in which we live.

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Do you have suggestions for an article? Is there a topic you'd like us to cover in a future issue? Please let us know! Send your feedback to shaptalk@shapiro.com.

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