

# “SHAP” TALK

June 2013 Issue No. 134

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## SHAPIRO SEMINARS

### *There's Still Time to Register for Shapiro's "Logistics of Exporting" Webinar!*

If you missed the Logistics of Importing webinar on May 22nd, don't miss the Logistics of Exporting webinar on June 18th!

These webinars were designed to assist all levels of importers and exporters in better understanding the logistics of their supply chains. Those attending will gain a deeper knowledge of key players and the entire process of moving cargo from origin to destination. These classes are ideal for new employees or anyone who would like a refresher in international transportation and Customs clearance. Topics will include documentation requirements, selecting the appropriate mode of transportation, Incoterms, common industry terminology, and specific timeframes.

The Logistics of Exporting webinar will be hosted by Matthew Kobussen, Shapiro's Transportation Manager, and Paul Yankelunas, Pricing Manager. Kobussen has been with Shapiro for 10 years, and manages the company's global forwarding staff. Yankelunas, who has been with Shapiro for 19 years, heads the entire pricing staff and maintains agent relations.

"We are so pleased to continue our education series," says Jane Taeger, Director of Compliance. "Through the various types of training Shapiro offers, our customers are able to improve their compliance and logistics knowledge and become more effective in their jobs."

The Logistics of Exporting will be presented on June 18, 2013 at 1:00 p.m. EDT.

#### Registration:

Interested parties may register by emailing Shapiro at [seminars@shapiro.com](mailto:seminars@shapiro.com).

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## TRADE NEWS

### *Reminder to Importers that GSP is Set to Expire on July 31, 2013*

The Generalized System of Preferences (GSP) program is slated to expire on July 31, 2013.

Implemented in 1976, GSP is the oldest of all of the current trade preference programs. It covers about 3500 products from 127 developing countries.

Although its extension is being lobbied, and the House Ways and Means Committee is working on the bill for its renewal, a timely renewal is not a given. There's currently no public text of any bill in the House or Senate to renew the program, and U.S. Customs and Border Protection (CBP) posted a message on their website on May 2nd that they had no information on whether the program will be renewed, or if there may be a time lapse before any renewal. If renewed late CBP is also unaware if there will be a clause added to the bill allowing for retroactive refund requests for products entered dutiable during any lapse period.

Although GSP renewal was mentioned in President Obama's 2013 Trade agenda, there's been very little movement in getting a bill drafted mostly because the renewal is often tied into larger trade legislation. Unfortunately this year GSP is a stand-alone objective. New tariffs take effect on August 1st, and Congress adjourns on August 2nd for its month-long recess. If not renewed by the end of July the legislation probably won't be addressed again until mid-September at the earliest, which will result in \$75 to \$100 million in additional duties which will have to be paid by importers.

Without GSP a heavy financial burden falls onto importing businesses, especially small companies. Increased costs affect all aspects of supply chains including possible changes to product sourcing. Of course those increased costs often trickle down into the economy at the consumer level.

Various promoters of the program recommend a long term extension to avoid the pattern of expiration and renewal. Recently GSP was only renewed on time in 2006, 2008, and 2009. Dating back to the mid-1990s GSP always expired before being renewed. Fortunately it's always been renewed with a retroactive clause which allows importers to recoup duties paid during the lapse period, but we can't assume this is a given year after year.

Additional information will be posted to the CBP website at [www.cbp.gov](http://www.cbp.gov) and in the Federal Register as it becomes available. We will keep our readers updated with the status.

The CBP message regarding GSP expiration may be found at: [http://www.cbp.gov/xp/cgov/trade/trade\\_programs/international\\_agreements/special\\_trade\\_programs/gsp\\_gen\\_system/gsp\\_expire.xml](http://www.cbp.gov/xp/cgov/trade/trade_programs/international_agreements/special_trade_programs/gsp_gen_system/gsp_expire.xml)

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## *CPSC Proposes Changes to Certificates of Compliance*

On May 13th as published in the Federal Register the Consumer Product Safety Commission (CPSC) has proposed changes to its regulations covering certificates of compliance on both imported and domestically manufactured products.

The Consumer Product Safety Improvement Act of 2008 (CPSIA) requires manufacturers and private labelers of certain children's and non-children's products to certify their products as meeting rule requirements based on third-party laboratory testing, or a reasonable testing program. The commission proposes the following changes and interested parties have until July 29th to submit comments or questions about the changes. Note the listing is not all inclusive.

- *The CPSC intends to clarify certificate requirements concerning the form's format, content, and availability. Some proposed new information to be required on the certificate will include the date of initial certification or re-certification after a material change to the product, the scope of the certificate to allow identification of products that are covered by the certificate, and the date and place of manufacture including a physical address on all certificates, not just when a manufacturer has more than one location. Post office boxes will not be accepted. The certificate would also include an attestation by the certifier that the certificate is true and accurate, and that the certifier is aware that it is a federal crime to make false or fraudulent statements on, or to omit information from the certificate.*
- *Importers would continue to certify finished products manufactured outside the U.S. that aren't delivered directly to consumers. They will not be allowed to utilize a component supplier's certificate. Importer is defined as the importer of record, which is the owner or purchaser of the goods. When designated by the owner, purchaser, or consignee, a licensed Customs broker may also act as importer of record. In this case the broker will be responsible for issuing the certificate.*
- *Foreign manufacturers will be responsible for issuing certificates on products which are delivered directly to consumers. For example, products purchased through an internet transaction unless the product bears a private label in which case the labeler will be the responsible party. Product categories that contain some products subject to a ban would still require certificates.*
- *Certificates whether for children's products or general conformity would only be required on finished products. Component parts intended for use or assembly in a finished product would not be subject to certificate requirements unless sold directly to consumers.*
- *Certificates will be required to be filed electronically with U.S. Customs and Border Protection (CBP) at the time of entry filing. CPSC's goal is to have the certificates filed as data components or elements to allow the formation of a database to be utilized for targeting purposes. Most likely the filing will be accomplished by either adding an electronic copy of the certificate with the entry, or uploading required data elements into CBP's record system. CPSC is considering the option of allowing the filing before the entry is made such as at the time of shipment manifest. CBP notes that the electronic filing process will be completed in stages as it will require software upgrades to existing systems. The rule will allow for continued use of a unique identifier to access electronic certificates, e.g. a web link, but the identifier will now be required to be shown on the invoice, shipping carton, or finished product.*

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- *For finished products delivered directly to consumers, the importer or foreign manufacturer will be able to submit the certificate electronically under the same methods, or will be allowed to make the certificate available for inspection by the CPSC on or before the product is distributed into commerce.*
  - *For recordkeeping purposes certificate issuers of general certificates of conformity will be required to maintain the certificates and testing records for five years, whether or not recordkeeping requirements are mandated by the underlying safety standards.*
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Following the proposed rule's publication CPSC Commissioner Nancy Nord condemned some of the proposed provisions. In a series of blog posts she has taken issue with the following:

- *The cost analysis included in the proposed rule doesn't include costs of the proposed revisions in concert with CPSC standards including testing for children's products and component parts. Only costs to the proposed changes to Part 1110 of the CPSC regulations were included. The proposed rule estimates a total yearly cost of \$118 million. Nord's approach yields a cost of \$424.2 million annually. For recordkeeping purposes certificate issuers of general certificates of conformity will be required to maintain the certificates and testing records for five years, whether or not recordkeeping requirements are mandated by the underlying safety standards.*
  - *The proposed rule originally stated that a certificate would not be required on products exempted from testing. As published the rule states that the exempted products will require a certificate stating they are exempted from testing. Nord stated that "requiring a certificate with no information other than an exemption is wasteful and contrary to the purpose of the testing regime."*
  - *The five year recordkeeping period conflicts with product specific recordkeeping requirements. For example, mattress flammability standards require the retention of records for three years after a product has been removed from the market.*
  - *Finally Nord expressed concern that the unique identifier being present on the product, its packaging, etc. will allow the certificate to be accessible to anyone including those who might use them for illegitimate purposes.*
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The proposed rule as published in the Federal register can be viewed in its entirety by visiting the following link: <http://www.gpo.gov/fdsys/pkg/FR-2013-05-13/pdf/2013-11164.pdf>

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## ***FDA Issues Final Rule for Prior Notice***

The Food and Drug Administration has adopted without change the interim final rule "Information Required in Prior Notice of Imported Food" effective May 30, 2013. The final rule requires a person submitting a prior notice to report any country to which the article of food has been refused entry. Only refusals for food safety reasons are to be reported. At this time, FDA is not requiring the reason for the refusal to be submitted along with the identity of the country. FDA may contact the submitter or other parties to obtain further information if necessary.

The Public Health Security and Bioterrorism Act of 2002 requires that information on imports of food for human and animal consumption be submitted to FDA in advance of arrival in the United States. The Prior Notice requirement went into effect in 2003.

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## *“Imports Work for America” – Chamber of Commerce Study*

The U.S. Chamber of Commerce has released an economic impact study that finds more than 16 million U.S. jobs depend on imports. Among the findings are that imports improve American families’ standard of living by ensuring a wide selection of low cost goods such as apparel and electronics, as well as year-round fresh fruits and vegetables. The study also revealed that more than half the firms involved in direct importing are small businesses employing fewer than 50 people. The report goes on to say that American manufacturers and farmers benefit from imports for raw materials inputs.

Exports are boosted by imports as imported goods contain U.S. research and development, design, and inputs that were exported for further manufacture abroad. The study mentions that 8.3 percent of U.S. imports by value contain U.S. materials, and 12.9 percent of the total value of exports include foreign inputs.

The study is available at <http://www.uschamber.com/reports/imports-work-america>

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## *Lacey Act Review at House Subcommittee Hearing*

The House Natural Resources Subcommittee held a hearing on May 16 to discuss the May 2008 Lacey Act expansion’s impact on businesses. One witness stated that the USDA is receiving 40,000 declarations a month at a “substantial cost and burden” to the agency and to importers. Some feel transactional declarations are unnecessary and would prefer a blanket declaration, or an on-demand declaration where importers would only need to provide the information upon request from Customs or USDA. Subcommittee Chairman John Fleming (R-LA) said, “There must be a better way to collect this information in a more effective manner.” Witnesses did recognize the worthy intent of the Lacey Act to combat trafficking in illegally harvested plants and plant products. However, the focus of the hearing seemed to dwell on the burden of the declarations, particularly for shipments from Canada.

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## *BIS Online Tools for Specially Designed and CCL Order of Review*

As part of the Bureau of Industry and Security’s outreach efforts for the Initial Implementation of Export Control Reform final rule published on April 16, 2013, BIS has developed two new web-based decision tools that will assist users in understanding and applying the CCL Order of Review and “Specially Designed” Definition.

### **CCL Order of Review:**

<http://beta-www.bis.doc.gov/index.php/export-control-classification-interactive-tool>

The CCL Order of Review Decision Tool will assist users in understanding the steps to follow in reviewing the CCL.

The U.S. Department of Commerce, Bureau of Industry and Security (BIS) offers this tool to users to help them identify the steps to follow when reviewing the Commerce Control List in Supplement No. 1 to part 774. This decision tool will help you classify items that are subject to the Export Administration Regulations (EAR).

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This decision tool is based on the new CCL Order of Review in Supplement No. 4 to part 774 of the EAR. The CCL Order of Review provides guidance for how to classify items in light of the addition of the 600 series Export Control Classification Numbers (ECCNs) to the CCL and the new definition of “specially designed.” This decision tool will ask you a series of questions that will help you determine the classification of items that are subject to the EAR. The first question you are asked is whether the item is subject to the EAR. If your item is not subject to the EAR, you will EXIT the CCL Order of Review Decision Tool. If it is subject to the EAR, the user will continue to proceed to the next sequence of questions.

### Specially Designed:

<http://beta-www.bis.doc.gov/index.php/specially-designed-tool>

The “Specially Designed” Decision Tool will assist users in determining if an item will be considered “specially designed” under the Export Administration Regulations (EAR).

BIS is offering this tool to users to help them determine whether items that are subject to the EAR are considered “specially designed.” As described in EAR § 734.3, the EAR governs only items subject to the EAR. If your item is not subject to the EAR, you will EXIT the review. If it is subject to the EAR, the user will continue to proceed to the next sequence of questions.

The “Specially Designed” Decision Tool will ask you a series of yes/no questions. The “Specially Designed” Decision Tool will guide you to one of three results: 1. The item is “specially designed” on the CCL; 2. The item is not “specially designed” on the CCL; or 3. Obtain guidance on the next steps to take if you have difficulty in answering whether an item is “caught” or “released” under the “specially designed” definition.

These tools, along with the Strategic Trade Authorization Tool (STA) can be found on the BIS website located at: <http://beta-www.bis.doc.gov/index.php/decision-tree-tools>

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## *BIS and State Department Publish Related Proposed Rules on Spacecraft Systems and Related Items (Category XV)*

On May 24, 2013, the Bureau of Industry and Security (BIS), Department of Commerce published a proposed rule on Control of Spacecraft Systems and Related Items the President Determines No Longer Warrant Control under the United States Munitions List (USML), Category XV. The State Department also published a related proposed rule on Revision of U.S. Munitions List Category XV and Definition for “Defense Service.” Both proposed rules are part of the President’s Export Control Reform Initiative. Comments on both rules are due by July 8, 2013.

Spacecraft and related items would be controlled on the Commerce Control List (CCL). Such items would be controlled by new Export Control Classification Numbers (ECCNs) 9A515, 9B515, 9D515, and 9E515 proposed by this rule and existing ECCNs. These are being referred to as the “500 series” as the 3rd digit is a 5. This is one in a planned series of proposed rules under the Administration’s Export Control Reform Initiative for items that no longer warrant USML control and would be controlled on the CCL under the Export Administration Regulations (EAR).

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This proposed rule is being published in conjunction with a proposed rule from the Department of State, Directorate of Defense Trade Controls (DDTC), which would amend the list of articles controlled by USML Category XV. As part of the President's Export Control Reform effort, the Department of State proposes to amend the International Traffic in Arms Regulations (ITAR) to revise Category XV (Spacecraft Systems and Related Articles) of the U.S. Munitions List (USML) to describe more precisely the articles warranting control on the USML. The definition of "defense service" is to be revised to, among other changes, specifically include the furnishing of assistance for certain spacecraft related activities.

The BIS proposed rule can be found in the May 24, 2013 Federal Register at:  
<http://www.gpo.gov/fdsys/pkg/FR-2013-05-24/pdf/2013-11986.pdf>

The State Department Proposed Rule can be found in the May 24, 2013 Federal Register at:  
<http://www.gpo.gov/fdsys/pkg/FR-2013-05-24/pdf/2013-11985.pdf>

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### *Andean Trade Preference Programs to Expire July 31*

The Andean Trade Preference Act/Andean Trade Preference Drug Eradication Act (ATPA/ATPDEA) programs are set to expire July 31, 2013. Customs does not have information at this time whether the programs will be renewed, or if they are renewed after the expiration date whether there will be a retroactive clause providing for refunds of claims made during such a period. Ecuador is currently the only country under the ATPA/ATPDEA.

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# TRANSPORTATION NEWS

*June 2013 Update*

## **INDUSTRY NEWS:**

### *Carriers' Finances Strain against Supply and Demand Imbalance*

Carriers are hoping to be able to increase rates on July 1 by implementing the Peak Season Surcharge (PSS) at an announced \$400 per 40' container to the U.S. West Coast and \$600 per 40' to all other destinations.

The Transpacific Stabilization Agreement (TSA) member carriers are concerned that the trans-Pacific freight rates are not keeping pace with the rising costs so they have to boost rates to ensure that the short term and unprofitable off-season rates are not extended for 12 months or longer in contracts. The biggest concern is that projected increases in capacity will jeopardize the ability for the lines to increase their rates to profitable levels. The TSA has decided that vessel capacity needs to be decreased now in order to get the rates to profitable levels following a poor contract negotiating season which benefitted the beneficial cargo-owners (BCO's) and not the carriers.

TSA carriers said that this year's contracts with BCO's that have been signed thus far show modest revenue gains compared to the contracts that were signed last year, but increased costs for the carriers grew at a faster rate than the gains that were made in the contracts. Carriers point to rising port charges and increased labor and inland transportation costs in the U.S. and Asia as sources where their costs have jumped in the past year.

Despite the fact that cargo volumes should increase over the next few months with back-to-school and holiday season shipments for the peak season of August through October for the eastbound Pacific cargo, over-capacity will trouble carriers in the coming months as larger vessels from the Asia-Europe trade come into the Trans-Pacific trade as the largest vessels that have been on order will be deployed to the Asia-Europe trade.

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### *China's New 'Green Fence' Policy Demands 'Clean Scrap'*

Exporters of recycled plastics, metal, and paper to China are beginning to feel the effects of China's new administration that is putting stringent rules on imports of scrap products. President Xi Jinping's administration has called for a dramatic increase of inspections of containers carrying scrap products in its effort to improve environmental conditions in China. This new policy is called the Green Fence policy which is aimed at stopping the practice of importing "adulterated" shipments. The Chinese inspections have sometimes discovered syringes in paper scrap shipments or full engines in metal scrap shipments.

To enforce the Green Fence Policy, the importers in China are requiring their suppliers to scrutinize their vendors from whom they source their material. U.S. exporters are now urged to do everything they can to minimize their risk of shipping cargo that could be rejected upon inspection.

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Carriers are now very careful about which shippers of scrap commodities they will allow to make bookings on their vessels; the shippers must be known to the carriers to be accepted. Carriers have reported containers being held up in China's ports for several weeks as officers manually unload the contents of containers pulled for inspection. China Shipping in particular is being especially careful of shippers they approve to ship on their vessels. Carriers also report westbound rates to be on the increase because they are shipping less "low revenue" cargo to Asia which results in a lift in the average rate for the trade.

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### *U.S. Agriculture Exports To Recover In 2013*

U.S. exports of agricultural products are expected to increase by \$6.2 billion over last year to hit \$142 billion in 2013. Rising crop prices in the past few years have increased the export value but this year prices have dropped as supply expands so we should see higher volumes being shipped to attain the higher value to be shipped.

Carrier capacity should not be a problem in 2013, especially for refrigerated cargo. Ocean container rates have remained quite steady since January. Weakened demand for refrigerated cargo to Europe has caused the glut of refrigerated equipment ready for export use in the U.S.

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### *Port Fee in NY/NJ Is Challenged*

The Port Authority of NY-NJ usage fee of \$4.95 per TEU and implemented in March 2011, already a subject of complaint before the U.S. Federal Maritime Commission, is now under fire by the New Jersey state legislature. The Port Authority assesses the Cargo Facility Charge to help pay for road and rail infrastructure as well as security in the ports of NY-NJ.

A new bill was introduced this month in the New Jersey state legislature that would prohibit the Port Authority from imposing such a Cargo Facility Charge unless it is done "upon written mutual agreement between that user, ocean common carrier, or marine terminal operator and the port authority". The bill is designed to make the port more competitive with other ports along the Eastern seaboard of the U.S., and is also dependent on the enactment of a similar law by the state of New York.

Senator Robert Gordon, vice chairman of the transportation committee in the New Jersey Senate also voiced broader concerns over how the Port Authority spends its money. After the Port Authority announced large toll increases in 2011 for the bridges and tunnels it operates, Senator Gordon called for more audits and oversight of the agency, however this was vetoed by Governor Chris Christie last year.

The carriers are complaining that it is too difficult to pass such a fee to their customers and they have had to absorb the charge. Port officials estimate that the fee generates about \$30 million in revenue per year. The port officials say that the fee is absolutely necessary to pay for port infrastructure improvements. Richard M. Larrabee, director of the Port Commerce department, commented that "the principle that freight should pay for itself is one that we believe should be embraced in this national freight policy." He added, "If we are significantly reducing the cost of transportation as we have for the last 15 years, shouldn't the people who benefit from that in some way be willing to pay for part of the investments that were made?" The question remains unanswered, Who will pay?

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## *U.S. Aims to Increase Trade with Caribbean Nations*

U.S. Vice President Joe Biden signed a Trade and Investment Framework Agreement (TIFA) this past week in Port of Spain, Trinidad that aims to provide a forum for bilateral talks to augment trade and investment and promote a discussion on trade issues between the United States and the Caribbean Community Nations (CARICOM).

Last year, U.S. exports to CARICOM nations increased 6 percent over 2011 to \$11.7 billion led by exports of mineral fuel, machinery, and cereals. The TIFA is designed to facilitate trade and investment, multilateral cooperation, intellectual property rights, worker rights, environmental protection and the removal of barriers to bilateral trade.

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## **OCEAN FREIGHT**

### *Carriers Set to Slow Steam Ahead*

Shippers should expect to see more slow-steaming in the east-west trade routes from Asia to the U.S. and Europe in the coming months as ocean carriers take delivery of more big ships. Due to surplus capacity, the carriers will slow-steam their vessels to lengthen transit times; however with the new vessels the carriers claim they will improve their schedule reliability which may help make up some of the lost time. As fuel prices remain high, ocean carriers claim they can no longer absorb the extra cost.

As of the end of April 2013, there were outstanding orders for 31 new ships carrying over 10,000 20' equivalent units, and the carriers are running out of places to put the excess capacity which makes slow steaming necessary to absorb some of this excess capacity in the market. Rate levels are heading once again to unsustainable levels.

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### *Ocean Rates from North Europe and Mediterranean Ports Set to Increase*

CMA-CGM announced that they will raise their rates from the Mediterranean ports to the U.S. East Coast ports effective July 1 by \$200 per 20' and \$300 per 40'. Maersk Lines announced a July 1 rate increase of \$200 per container from North Europe ports to U.S. and Canadian ports. MSC, Hanjin, and China Shipping announced a June 1 rate increase from the Mediterranean ports at \$250 per 20' and \$350 per 40', however these amounts are expected to be mitigated.

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### *MSC to Raise Indian Subcontinent Rates to USA*

MSC has announced that they will raise their rates from India, Pakistan, Bangladesh, and Sri Lanka to the U.S. at \$320 per 20', \$425 per 40', and \$425 per 40' HC.

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## SAMUEL SHAPIRO & COMPANY, INC. NEWS

### *Shapiro Exhibits at the Maryland/DC Celebration of International Trade 2013*

Samuel Shapiro & Company, Inc., joined Maryland's exporters to celebrate International Trade Week, hosted by the Maryland/DC District Export Council, on May 21, 2013, at the Maritime Institute in Linthicum, Maryland.

The Maryland/Washington DC District Export Council, Inc. (DEC) is an organization of leaders from local business communities whose knowledge of international business provides a source of professional advice for local firms. Working closely with Department of Commerce U.S. Export Assistance Centers (USEACs), DEC members volunteer their time to sponsor and participate in numerous trade promotion activities. Like the USEACs, they are especially focused on assisting small and medium-sized exporters.

The day-long Celebration of International Trade conference, sponsored by the DEC as well as corporate and government agencies, featured two dozen 90-minute workshops on various topics including guidelines for exporting, risk mitigation, government resources, international finance and diversification. Representing Shapiro at the conference was Regional Director of Sales, Robert Clawson. Clawson's extensive knowledge of the export industry stems from over 15 years of experience serving the international freight community.

"I am excited to be representing Samuel Shapiro at the Maryland/DC Celebration of International Trade 2013," says Clawson. "With over 300 exporters in attendance, I welcome the opportunity to pass along some of our knowledge and experience on the export side."

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### *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 Carlos Pastor, Pricing Analyst, for his outstanding performance and contributions.

We encourage you to provide us with employee feedback! Please email us at [hr@shapiro.com](mailto:hr@shapiro.com).

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## WE WANT TO HEAR FROM YOU!

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