



“SHAP” TALK

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SAMUEL SHAPIRO & COMPANY, INC. NEWS

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Employee of the Month

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TRADE NEWS

Consumer Product Safety Improvement Act 2008

On October 14, 2008, the Consumer Product Safety Improvement Act (CPSIA) became law. It requires that all manufacturers, both foreign and domestic, and importers of consumer products issue a certificate of conformity, also known as a “General Conformity Certification,” ensuring that their products conform to any applicable rule, ban, regulation, or standard imposed by the Consumer Product Safety Commission (CPSC).

Consumer products will require the certificate if they are manufactured on or after November 12, 2008. A consumer product is defined as any article produced or distributed for sale to a consumer for household, school, recreational, or other use for the consumption or enjoyment by a consumer. Categories include such products as toys for children aged 12 and under, wearing apparel, pharmaceuticals, paint, furniture, fabrics, child care products for children aged 3 and under, among many others.

The required certificate must be issued by every manufacturer that produces a product that falls within the CPSC’s oversight. The term manufacturer also includes importers. If the product has a private label, the labeler must also include a certificate of conformity. The certificate may be issued jointly or separately by the manufacturer and importer. There may also be multiple certificates required on a single product or shipment.

The certificate must accompany each product or shipment of products covered by the same certificate, and the certificate must be made available to Customs and the CPSC upon request. There currently isn’t any requirement to present any certificate to U.S. Customs and Border Protection or the CPSC, but in the future there may be a requirement to file the certificate electronically up to 24 hours before the arrival of the carrier on imports.

The certificate must also be supplied to each distributor or retailer of the product.

The certification must be based on a test of each product or on a reasonable testing program, and an importer can make his certification based on tests conducted by the foreign manufacturer provided that the importer keeps a copy of the test records in English for a period of 3 years from the date of the certification. In this case, the importer must be a resident of the U.S. or must have a resident agent in the U.S. Some products such as lead paint, small parts, cribs, and pacifiers, etc. may also require accredited third party testing as early as late December 2008. The CPSC will be publishing a listing of accredited third party testers and the requirements to become an accredited third party tester at a later date.

If a product is subject to a standard but is exempt from testing, a certificate still needs to accompany the product stating that the product is exempted from testing.

The CPSC advises that while there is no prescribed format for the certificate, it could be in the form of a label on the product, an attachment or label on the shipping container, a separate document, or be included in another document such as an invoice or bill of lading. The certificate must include such information as the identification of the product, a reference to the citation of each applicable CPSC regulation, identification of the foreign manufacturer and U.S. importer and private labeler (if any), date and place where the product was manufactured, date and place where the product was tested, the identification of the third party lab as applicable, and contact information for the individual maintaining test result records.

In addition, the CPSC has made it unlawful to fail to furnish a certificate or to issue a false certificate. Knowing and willful violations will be subject to civil and criminal penalties including asset forfeiture. The instant shipment will also be refused admission and must be destroyed unless the Treasury Secretary allows export under a limited exemption. All expenses for the destruction are the responsibility of the owner or consignee and if not paid they will become a lien against future shipments. There may eventually be a new rule to establish sufficient bond amounts to cover destruction costs.

In summary, the CPSC's new law leaves some unanswered questions for importers concerning how to meet the requirements:

- How can certificates be made available for CPSC review whether in paper form or electronically so that they can be matched to specific products, and what's the best method for certificates to "accompany" shipments so that they can be available for instant review?
- Concerns about multiple certificates on one product.
- What's a reasonable methodology for supplying the certificate information to distributors and retailers?

Importers of CPSC regulated products should be contacting their foreign manufacturers now to set up a program that will confirm testing protocols, establish procedures in providing dual certifications of products, and to determine a uniform format for the applicable certificates, i.e. a product label, separate document, etc.

There will also be requirements for printed warning certifications in advertising in catalogs and on the internet for children's products such as balloons, small parts, marbles, etc. that may represent aspiration hazards, etc. The effective dates for the certifications are December 12, 2008 for internet advertising, and February 10, 2009 for catalogs and printed materials.

Any specific questions concerning the new law can be addressed to the CPSC, and additional information including the new regulations and a listing of regulated consumer products and their relative applicable product safety standards can be viewed by visiting the CPSC website at www.cpsc.gov.

Update on Plant and Plant Product Declaration

Last month we wrote about the Lacey Act Amendment which includes a provision to require a declaration at the time of importation for all plants and plant products (<http://www.shapiro.com/docs/ShapTalk/ShapTalk78.pdf>). Since then, the U.S. Department of Agriculture (USDA) has published a notice in the Federal Register on October 8, 2008, and held a public meeting on October 14, 2008 to discuss the implementation of this declaration.

An interagency panel was present at the meeting and will be together as long as needed for the implementation of the new Lacey Act import declaration provisions. This interagency panel consists of U.S. Department of Agriculture (USDA) as the lead, U.S. Customs and Border Protection (CBP) assisting in the collection of data, the Department of Justice, and the Department of Interior's U.S. Fish and Wildlife Service helping with issues regarding enforcement of the act, USDA Forest Service, Department of State, the Office of the U.S. Trade Representative, and the Council on Environmental Quality, which plays an important role in coordinating all of the agencies involved.

The Lacey Act is the nation's oldest wildlife protection statute. As amended recently, the Lacey Act is an important tool to help the U.S. combat illegal logging and trafficking in wildlife, fish, and plants. The recent 2008 Farm Bill significantly amends the Lacey Act and makes it illegal to import, export, transport, sell, receive, acquire or purchase in interstate or foreign commerce any plant taken or traded in violation of a U.S. state or most foreign laws. It also makes it illegal to submit any false record or false identification of a plant.

The Act also includes a new declaration requirement relating to plants and plant products that must be made at the time of importation. The declaration must include the scientific name of the plant (genus and species), value, quantity, and name of the country from which the plant was taken. If the genus and species is unknown, the declaration must contain the name of *each plant species* which *may* have been used to produce the product. If the country from which the plant was taken is unknown, the declaration must contain the name of *each country* from the plant *may* have been taken. If a paper or paperboard product includes recycled material, the declaration must include the average percentage of recycled material content. Plant and plant products used exclusively as packaging material to support, protect, or carry another item (such as cartons, crates and pallets) are excluded from the declaration requirement, unless the packaging material itself is the item being imported.

Definition of "plant" means any wild member of the plant kingdom including roots, seeds, parts, or products thereof and trees from either natural or planted forest stands.

There are exceptions for:

- common cultivars, except trees and common food crops (including roots, seed, parts or products thereof),

- scientific specimens of plant genetic material to be used only for laboratory or field research and
- any plant that is to remain planted or to be planted or replanted.

The exceptions do not apply if the plant is listed in an appendix to the *Convention on International Trade in Endangered Species of Wild Fauna and Flora*, as an endangered or threatened species under the Endangered Species Act of 1973, or pursuant to any state law that provides for the conservation of indigenous species that are threatened with extinction.

As noted above, “common cultivars” and “common food crops” will be excluded. USDA and the Department of the Interior are currently working to define what these “common” items are. Officials at the public meeting noted that anything that is consumed by humans as food (including wine) is expected to be excluded as a common food crop. Common cultivar exclusions are expected to include cotton and tobacco (and their products).

USDA stated at the public meeting that they are not looking for declarations for labels, hang tags, instruction booklets or manuals that accompany products.

According to the law, the effective date is December 15, 2008, but enforcement will not begin until April 1, 2009. CBP is exploring filing the declaration electronically using the legacy U.S. Fish & Wildlife system. The electronic filing is expected to be in place for the April 1st deadline. If not, that deadline could be pushed back. However, Customs officials have stated that if the electronic filing system is delayed by several months, the use of a paper declaration would have to be reconsidered. In the meantime, USDA has asked importers NOT to file any paper declarations and to wait until the electronic filing system becomes available.

Although USDA does not want paper declarations filed for the time being, a draft of the *Plant and Plant Product Declaration Form* was introduced by USDA at the October 14th meeting. A copy of this draft can be obtained by e-mailing compliance@shapiro.com.

The declarations will be phased in based on the following schedule:

Beginning April 1, 2009 (or as soon thereafter as an electronic system is available) - Harmonized Tariff Schedule (HTS) Chapters 44 (wood & articles of wood) and 6 (live trees, plants, bulbs, cut flowers, ornamental foliage, etc.).

Beginning July 1, 2009 (approximate) - HTS Chapters 47 (wood pulp), 48 (paper & articles of), 92 (musical instruments), 94 (furniture), plus chapters included in previous phase

After September 30, 2009, based on experience with the implementation of the electronic system for declaration data collection, USDA will phase in enforcement of the declaration requirements for additional chapters containing plants and plant

products covered by the Lacey Act, including (but not limited to) Ch. 12 (oil seeds, misc. grain, seed, fruit, plant, etc.), Ch. 13 (gums, lacs, resins, vegetable saps, extracts, etc.), Ch. 14 (vegetable plaiting materials and products not elsewhere specified or included), Ch. 45 (cork and articles of), Ch. 46 (basket ware and wickerwork), Ch. 66 (umbrellas, walking sticks, riding crops), Ch. 82 (tools), Ch. 93 (guns), Ch. 95 (toys, games and sporting equipment), Ch. 96 (brooms, pencils, and buttons), and Ch. 97 (works of art). USDA will announce a specific phase-in schedule for those chapters in a subsequent Federal Register notice.

Personal use shipments and carnet shipments are expected to be exempt from the declaration requirement.

Transportation and Exportation (T&E) and Immediate Export shipments (IE), and Foreign Cargo Remaining On Board (FROB) are not be subject to the declaration requirement because they are not technically imported into the U.S.

For shipments being entered into the Foreign Trade Zone (FTZ), the declaration is expected at the time of entry into the FTZ.

Federal Register notice dated 10/8/08 available at:
<http://edocket.access.gpo.gov/2008/pdf/E8-23984.pdf>

Please submit any questions you may have regarding the new Lacey Act declaration requirement to USDA-APHIS at the following email address:
lacey.act.declaration@aphis.usda.gov.

Lacey Act Implementation Questions and Answers:
http://www.aphis.usda.gov/plant_health/lacey_act/downloads/Lacey_Act_Q&A.pdf

View the entire meeting on the APHIS website at:
http://www.aphis.usda.gov/plant_health/lacey_act/

Chinese Safeguard Quotas Ending December 31st

Textile quotas were eliminated January 1, 2005, and as expected, there was a significant surge in textile imports from China. Imports of some categories of apparel increased by over 1800%. While quotas are administered by Customs and Border Protection (CBP), textile quotas are actually imposed by the Committee for the Implementation of Textile Agreements (CITA), an interagency group chaired by the Department of Commerce. When the quotas were eliminated, CITA imposed safeguards on various categories of textiles coming from China to continue market protections for U.S. manufacturers.

There are 34 categories of textiles and apparel from China covered by 21 annual absolute quota limits under the U.S.–China Bilateral Textile Agreement. These current safeguard quotas expire December 31, 2008, and once again, the United States is

bracing for another surge in textile and apparel imports from China. Citing concern with market disruption, House Ways and Means Committee Chairman Charles B. Rangel (D-NY) has requested that the U.S. International Trade Commission (ITC) collect data on Chinese textile imports and report those data back to the Committee on a regular basis. Not only do Chinese textile imports affect U.S. manufacturers, they also impact importations from developing countries in Africa, the Caribbean, and Central and South America.

Chairman Rangel's letter requests the ITC do the following:

- Initiate an investigation to provide the Committee with statistical reports on the volume, value, unit value, and import market share of certain textile and apparel imports from China.
- Compile these data at the 3 digit textile apparel category level and by 10 digit Harmonized Tariff Schedule number for each product within each of the three-digit textile apparel categories.
- Provide the Committee with preliminary Customs data once every two weeks and final Census data once a month.
- Simultaneously post these reports on its website.
- Provide an historical compilation of the volume, value, unit value, and import market share of the articles specified above dating from January 1, 2003 to the most recent month available.
- Provide the Committee with reports as the preliminary and final data become available.
- Publish a compilation of the monthly reports of the final Census data on an annual basis.
- Continue providing these reports until such time that the Committee terminates or amends the request.

As well, members of the Congressional Textile Caucus have asked President Bush to extend the Textile Monitoring Program currently in place with Vietnam to textile and apparel products from China, including the categories covered under the expiring U.S.-China Textile Bilateral Agreement.

Does this mean quotas may be extended? Will antidumping duties be imposed? At this time, the ITC data will be used only to determine if further investigation is warranted, which could possibly open the door to more quotas and/or antidumping duties.

CBP Adds FAQ's on Foreign Trade Regulations Requirements

U.S. Customs and Border Protection (CBP) has posted to their website information regarding the Foreign Trade Regulations (FTR) Automated Export System Requirements, along with Frequently Asked Questions covering the following topics and more:

- ◆ Enforcement of the FTR
- ◆ Time frame for providing ITN number to Exporting Carrier and ITN requirements

- ◆ Discrepancies
- ◆ Penalties
- ◆ Filing Responsibilities
- ◆ Vehicle Export Requirements
- ◆ Shipments Transported on a Subsequent Conveyance
- ◆ Shipments Transported on an Earlier Conveyance
- ◆ Split shipments
- ◆ Consolidations

To access this information regarding the FTR requirements, go to CBP's website at: <http://www.cbp.gov/xp/cgov/trade/automated/aes/>

If you are not sure about your responsibilities under the new Foreign Trade Regulations, contact compliance@shapiro.com.

New EAR License Exception Intra-Company Transfer

The Bureau of Industry and Security (BIS) under the Department of Commerce published a proposed rule on October 3, 2008 for the Establishment of a new license exception for Intra-Company Transfer (ICT) under the Export Administration Regulations. This license exception would allow an approved parent company and its approved wholly-owned or controlled in fact entities to export, re-export, or transfer (in-country) many items on the Commerce Control List (CCL) among themselves for internal company use. Prior authorization from BIS would be required to use this license exception.

This rule describes the criteria pursuant to which entities would be eligible to use License Exception ICT and the procedure by which they must apply for such authorization. There are many facets to applying for this authorization and companies must weigh the costs and benefits of this program. This can be very beneficial for companies that have a need for this with potential elimination of the need to obtain, track and report on individual licenses for intra-company commodity and technology transfers. Companies must look at all of the requirements so they know full well what their responsibilities are before applying for the ICT exception.

Comments must be received by November 17, 2008. Instructions for comments can be found in the Federal Register Notice dated 10/3/2208 at: <http://edocket.access.gpo.gov/2008/E8-23506.htm>. For further information contact: Steven Emme, Regulatory Policy Division; Telephone: 202-482-2440; E-mail: semme@bis.doc.gov.

CBP Extends C-TPAT Participation to 3PLs

U.S. Customs & Border Protection (CBP) has made the Customs-Trade Partnership Against Terrorism (C-TPAT) available to third party logistics providers (3PLs). A 3PL is a company that provides management logistic services throughout an importer's supply chain including transportation and delivery services, warehousing, freight consolidation, etc. Non asset based 3PLs are excluded from C-TPAT participation. These types of companies aren't able to influence supply chain security because they don't own warehouse facilities, or transportation vehicles, and therefore aren't an active party in the international supply chain, though they may provide other services such as consultation, audit, or domestic services.

CBP has posted on their website the minimum security and eligibility requirements for participation. Applications from prospective participants can be filed on-line beginning approximately in January 2009. CBP also advises that it will utilize the validation program to ensure that 3PLs are using and implementing the security criteria. 3PLs found to be non-compliant upon validation may be suspended or removed from the C-TPAT program.

The following represent criteria for participation. Note that this listing is not all inclusive. The 3PL:

- Must maintain an office in the US.
- Must be licensed and/or bonded by the Federal Maritime Commission (FMC), Transportation Security Administration (TSA), the Department of Transportation (DOT), or CBP.
- Must be directly involved in handling cargo from the point of loading in the foreign port to the first US port of arrival.
- Must utilize its own transportation, consolidation, and/or warehousing instruments and resources on behalf of an importer.
- Must not subcontract any service beyond a second party unless to another C-TPAT member.

The 3PL must also meet minimum security criteria to participate in the program, and detailed information concerning the criteria must be submitted with the C-TPAT application. Following is a partial listing of criteria areas:

- Detailed security procedures
- Container security procedures, if applicable
- Procedural security
- Conveyance/ transportation security measures
- Information technology security
- Business partner security measures
- Security training
- Threat awareness and action measures

More information on 3PL security requirements and CBP's implementation plan can be reviewed by visiting the CBP website at www.cbp.gov/xp/cgov/trade/cargo_security/ctpat/third_party.

Time to Renegotiate for Chinese Products?

China will again increase the VAT tax rebate rates for many commodities on November 1, 2008. This follows industry targeted increases to the rebate rate in 2007 and in August of this year. In essence, China is creating a commercial advantage for producers of higher value products in keeping with the country's broader economic plan. By increasing the VAT rebate, the effective final tax on the targeted goods decreases, and this decrease should also be felt by U.S. and other global importing firms.

As the more experienced purchasing professionals can tell you, the VAT rebate system in China is an interesting game of chess. Since the tax is applicable at each step in the supply chain and since the tax is locally negotiable in China to a certain extent, the actual cost of the tax is often quite murky. When you consider the possibility of buyers' consolidations, purchasing agents, and trading companies present in the majority of transactions, the murk becomes more like a dense fog. And when you add the fact that smaller producers of smaller orders can sometimes offer a VAT-free price for goods, you move from purchasing in the fog to purchasing completely blindfolded!

The key to understanding the implications of your VAT rebate is to have a handle on the price of goods from various perspectives relative to terms of sale. You must know the cost of your goods from an EXW (ex-works), FOB (free on board) Chinese Port, and EXW with Tax Receipt point-of-view. In this way, you can forecast costs over the long haul while taking advantage of potential VAT-free pricing. Also, the process of collecting pricing from your suppliers should give you some notion of their business approach to processing the VAT rebate and their customer (selling) VAT rebate strategy. The very worst case scenarios are that your goods will not export due to a lack of tax documentation or that your price will change when VAT is applied to the transaction. You want to be sure your supplier has experience and know-how with VAT tax rebating. It goes without saying that you want to find a supplier who fairly shares the tax reduction with you.

Please note the expected VAT rebate rates after November 1 for your affected HTS numbers:

China's HTS Number	VAT Rebate Rate Raised to
0201300090	13
0304291000	13
0304299090	13
0304990090	13

0305490000	13
0306199000	13
0307490000	13
0307590000	13
2501001100 - 2501002000	13
2924199090	11
2934994000	13
2937120000	13
2938901000	13
3806201000 – 3806209000	11
3824400000	11
3913900000	11
3922100000	9
3922200090 – 3926909090	9
4203100090	11
4303101090	11
4303102090	11
4303900090 - 4304002000	11
4820100000 - 4821900000	11
49011000 - 49040000	13
49059100	13
49059900	13
5004000000 - 5007909099	14
5106100000 - 5108101100	14
5108101990	14
5108109090	14
5108201100	14
5108201990	14
5108209090	14
5109101100 – 5109909000	14
5110000090 – 5113000000	14
5204110000 – 5212250090	14
5306100000 – 5311009099	14
Chapter 54 – entire chapter	14
Chapter 55 – entire chapter	14
Chapter 56 – entire chapter	14
Chapter 57 – entire chapter	14
Chapter 58 - entire chapter	14
Chapter 59 – entire chapter	14
Chapter 60 – entire chapter	14
Chapter 61 – entire chapter	14
Chapter 62 – entire chapter	14
6301100000 – 6308000090	14
6310100010 – 6310900090	14

6909110000 - 6909190000	11
6911101000 - 6913900000	11
7002201000	11
7002311000	11
7006000001 - 7008009000	11
7011201000	11
7014001000 - 7014009090	11
7016100000-7016909000	11
7020001100	11
7311009000	11
7315119000	11
7315810000 - 7315890000	11
7410211000	11
8103901100	13
8207199000	11
8208101000	11
8306299000	11
8311100000 - 8311900000	11
8413709990	11
8414511000 - 8414519900	11
8414902000	11
8452101000	11
8452211000 - 8452290000	11
8467210000 - 8467299000	11
8506101100 - 8506101200	13
9403300090	11
9403400090	11
9403501090 - 9403509100	11
9403509990	11
9403601090 - 9403609100	11
9403609990 - 9403891000	11
9403892000	13
9403899000 - 9403900090	11
9404290000	14
9404301090	14
9404309000	14
9404901090	14
9404902090 - 9404909000	14
9503001000 - 9503009000	14
9504100000	14

SAMUEL SHAPIRO & COMPANY, INC. – THE LATEST

Time flies - Don't miss our last seminar of 2008. And make sure you are ready for 2009!

Our last seminar of the year is coming up. This is your last chance in 2008 to make sure you are ready for all of the upcoming changes in your import program in 2009.

As you know, the 10+2 rule is expected to be out within weeks. Do you know what it means to you and your business? 10+2 will affect *every* importer and represents a vast change in how and when information is provided to U.S. Customs for each shipment. In addition, the recently enacted Farm Bill imposes new declaration requirements on importers including First Sale, Softwood Lumber, and the wide-ranging Plant Product Declaration. We will also discuss the Consumer Product Safety Improvement Act.

You won't want to miss our presentation on what 10+2 and the Farm Bill means to you.

Our last Import Compliance and 10+2 class will be held at the Doubletree Fort Lee in Fort Lee, NJ on November 6th. The seminar will be presented and hosted by Jane Taeger, our Director of Compliance.

Time:

8:30-9:00: Breakfast and registration

9:00-12:00: Seminar

Cost (includes seminar materials, continental breakfast, and refreshments):

\$85.00 per person

\$75.00 additional attendees from the same company

Click on the link below to register today!

<http://www.shapiro.com/html/2008SeminarSchedule.html>

If you have suggestions for our 2009 seminar schedule, please email compliance@shapiro.com. We would love to hear your ideas!

Samuel Shapiro & Company, Inc. Recognized in Forbes Magazine

We are proud to announce that Samuel Shapiro & Company, Inc. was recognized by the American Heart Association as a Gold Start! Fit-Friendly Company 2008 in the October 27th issue of Forbes Magazine. Shapiro is the only Customs Broker awarded this recognition. As a Gold Level Award recipient, Shapiro recognizes the importance of a healthy workplace for our employees and has taken important steps to create a culture of physical activity in the workplace.

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 Jessica Roca, Dulles Account Coordinator, 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.