Shap Talk

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In this issue:

WE WANT TO HEAR FROM YOU!

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TRADE NEWS:

Managing Risk for Customs Surety Bonds During COVID-19

The impact of the coronavirus (COVID-19) has created widespread disruption in many business operations. As a result, supply chains and companies around the world are experiencing highly damaging reductions in revenues, leading to cash flow issues throughout the economy. Unfortunately, some importers are having difficulty making duty payments on time.

As a result, President Trump signed an Executive Order earlier this month authorizing U.S. Customs and Border Protection (CBP) to postpone the payment of certain duties, taxes and fees for "importers suffering significant financial hardship because of COVID-19" for 90 days.

On April 19, CBP issued CSMS message 42423171, which detailed the requirements and process for a 90-Day Postponement of Payment for the Deposit of Certain Estimated Duties, Taxes, and Fees. Although this option may be a reprieve for some importers, others may not qualify due to the eligibility requirements outlined by CBP.

As you may already know, one of the main purposes of a Customs surety bond is to guarantee the payment of import duties and taxes. However, when an importer faces financial problems, it can lead to higher risks for the surety.

Should an importer apply for duty deferment, it's important to keep the surety up to date with any relevant information as needed for a variety of reasons, including:

- If CBP has already indicated that their system may automatically issue Liquidated Damages, the surety may need to assist in getting these canceled or mitigated.
- Higher risk means additional scrutiny when it comes to Customs surety bonds; the surety will need to take a closer look so that they can limit their risk.

What does this mean for importers?

Importers may face additional questions regarding their business operations as it relates to COVID-19. For example, underwriters may ask if employees are working from home and if the business is still operational during the pandemic. They may also want to address how COVID-19 has impacted the business in other ways. Additional questions such as these will help the underwriters assess the risk. In the end, this may result in updated bond collateral requirements for importers.

Questions about Customs Bonds? Please reach out to compliance@shapiro.com.

Coronavirus Brings New Exclusion Opportunities to the Horizon

On March 25, 2020, the Office of the U.S. Trade Representative (USTR) published a notice in the Federal Register (docket number USTR-2020-0014) inviting importers to submit public comments about whether any products needed to address the COVID-19 outbreak should be excluded from Section 301 tariffs.

Comments will be accepted even on products "subject to pending or denied exclusion requests." The process is designed to supplement, not replace, existing exclusion procedures for Section 301 tariffs.

Similar to previous Section 301 exclusion request processes, comments must identify the product of concern, the 10-digit HTSUS subheading applicable to the product, and a detailed description of the product. Additionally, it must explain precisely how the product relates to the response to the COVID-19 outbreak. For example, the USTR specifically states that "…the comment may address whether a product is directly used to treat COVID-19 or to limit the outbreak, and/or whether the product is used in the production of needed medical-care products."

This announcement may present an opportunity for importers of a wide range of goods – from food to exercise equipment parts – that can help Americans manage the stress and anxiety caused by the pandemic.

The USTR strongly encourages comments to be submitted "as promptly as possible" to enable timely responses to requested modifications. Comments will be open at least until **June 25, 2020** and may be extended as appropriate.

All submission requests must be sent electronically via the Federal eRulemaking Portal; the docket number is **USTR–2020–0014**.

How can we help? Shapiro is well versed in Section 301 exclusions. Please reach out to compliance@shapiro.com for assistance with your filings!

BIS Announces Proposed and Final Rules to Amend Export Administration Regulations

On April 28, the Bureau of Industry and Security (BIS) issued three separate rulings, one proposed and two final, that address several amendments to the Export Administration Regulations (EAR).

1. Modification of License Exception Additional Permissive Reexports (APR)

This proposed rule will amend the EAR by modifying License Exception Additional Permissive Reexports (APR). Specifically, BIS is proposing to remove provisions which authorize reexports of certain national security-controlled items on the Commerce Control List (CCL) to gain better visibility into transactions of national security or foreign policy interest to the United States.

The proposal recommends modification of License Exception Additional Permissive Reexports (APR) (§ 740.16 of the EAR) which, among other things, authorizes certain reexports between and among certain countries. These changes are all intended to advance the U.S. National Security and Defense Strategy.

All comments must be submitted electronically by June 29, 2020 via the Federal eRulemaking Portal; the docket number is **BIS-2020-0010**.

Click here to view the full notice in the Federal Register (document number **2020-07239**).

2. Elimination of License Exception Civil End Users

This final rule will amend the EAR by removing License Exception Civil End Users (CIV) and requiring a license for national security-controlled items on the CCL to countries of national security concern effective June 29, 2020.

This will advance U.S. national security interests by allowing the U.S. government to review transactions to these countries prior to export, reexport or transfer (in-country) in accordance with current licensing policy for national security-controlled items on the CCL.

This rule also makes conforming changes to the CCL by removing the CIV paragraph from each Export Control Classification Number on the CCL where it appears.

Click here to view the full notice in the Federal Register (document number **2020-07240**).

3. New Military End Use/User Rule Requires EEI Filing of CCL Items to China, Russia, and Venezuela and Expands License Requirements

This final rule will amend the EAR to expand license requirements on exports, reexports, and transfers (in-country) of items intended for military end use or military end users in the People's Republic of China (China), Russia, or Venezuela effective June 29, 2020.

Specifically, this rule expands the licensing requirements for China to include "military end users," in addition to "military end use." It broadens the list of items for which the licensing requirements and review policy apply and expands the definition of "military end use."

Next, it creates a new reason for control and the associated review policy for regional stability for certain items exported to China, Russia, or Venezuela, moving existing text related to this policy.

Finally, it adds Electronic Export Information filing requirements in the Automated Export System (AES) for exports to China, Russia, and Venezuela. This rule supports the objectives discussed in the National Security Strategy of the United States.

Anything on the CCL going to China, Russia, and Venezuela must be filed in AES regardless of the value. For CCL items, there is no low value exemption for shipments under $2500.00 per Schedule B.

Click here to view the full notice in the Federal Register (document number **2020-07241**).

USTR Announces Comment Period for Sixth and Seventh Rounds of Section 301 Exclusion Extensions

The office of the U.S. Trade Representative (USTR) is seeking comments regarding the extension of exclusions on the sixth and seventh sets of Section 301 exclusions, which are set to expire in July 2020. This extension would add another year of validity to the current product exclusions.

Round 6 Extensions (List 1 Products)

The sixth round of Section 301 exclusions covers 110 HTS subheadings from List 1. Originally granted on July 9, 2019, this round of exclusions is currently set to expire on **July 9, 2020**.

Please refer to the schedule below for all consideration and comment deadlines:

- **May 1, 2020:** Online portal will open for submissions beginning at 12:01 am ET
- **June 1, 2020:** All written comments must be submitted by 11:59 pm ET

All submission requests must be sent electronically via the Federal eRulemaking Portal; the docket number is **USTR–2020–0017**.

The USTR notice can be found HERE.

Round 7 Extensions (List 2 Products)

The seventh round of Section 301 exclusions covers 69 HTS subheadings from List 2. Originally granted on July 31, 2019, this round of exclusions is currently set to expire on **July 31, 2020**.

Please refer to the schedule below for all consideration and comment deadlines:

- **May 1, 2020:** Online portal will open for submissions beginning at 12:01 am ET
- **June 1, 2020:** All written comments must be submitted by 11:59 pm ET

All submission requests must be sent electronically via the Federal eRulemaking Portal; the docket number is **USTR–2020–0018**.

The USTR notice can be found HERE.

If you were fortunate enough to benefit from this exclusion in the past, we highly recommend that you take part in this comment period!

It's important to remember that it is very likely that not all products/HTS subheadings that were originally granted exclusions will receive extensions. Should you wish to participate, please note that each comment will be individually evaluated and should address the following:

- Whether the product remains available only from China or if the product and/or a comparable product is available from sources in the US and/or in alternative countries
- Any changes in the global supply chain with respect to the product, or any other relevant industry developments (since the date in which the tariffs originally went into effect)
- Any efforts importers or US purchasers have undertaken to source the product from the United States or alternate countries (since the date in which the tariffs originally went into effect)

For issues with online submissions related to Section 301, please contact: Assistant General Counsels Philip Butler or Benjamin Allen, (202) 395–5725.

How can we help? Please reach out to compliance@shapiro.com for assistance with renewing your filings!

Shapiro will also continue to monitor and provide status updates on our Section 301 Tariff News page as they become available.

USMCA to Officially Become Effective on July 1

On April 24, Robert Lighthizer, the U.S. Trade Representative (USTR) announced that the United States-Mexico-Canada Agreement (USMCA) will officially take effect on July 1, 2020.

With this announcement, the U.S. finally joins Mexico and Canada in successfully completing the proper measures required to comply with the commitments established under the new agreement, which marked the final hurdle standing in the way of the USMCA going into effect.

Once the USMCA becomes effective, it will officially symbolize the end of the North American Free Trade Agreement (NAFTA) and the beginning of a new chapter that is expected to lead to more balanced and fair trade, along with a streamlined, modernized approach. Such improvements include creating more jobs, providing stronger labor protections, and expanding market access, which in turn should lead to new opportunities for North American workers, farmers, and ranchers.

APHIS Shifting to ACE Submissions Effective August 2020

The mission of the U.S. Department of Agriculture (USDA) and Animal and Plant Health Inspection Services (APHIS) includes protecting U.S. agricultural resources from pests and diseases, managing wildlife damage, regulating genetically engineered organisms and administering the Animal Welfare Act.

APHIS regulates a multitude of imported products ranging from livestock, cut flowers, potted plants, produce, grains and many others. Any importer looking to bring a product regulated by the USDA to the United States will need to determine if a USDA permit will be required.

Beginning in August 2020, many of the permits and licenses that are currently submitted to APHIS in paper form will instead be transmitted as a message set electronically in the Automated Commercial Environment (ACE). However, certain government-to-government certificates, such as CITES, Phytosanitary and Health Sanitary Certificates, will continue to be collected in their original paper format that is signed and scanned into ACE's Document Imaging System (DIS).

At this time, APHIS has flagged more than 2,000 HTS codes that either require or may require such documentation to be submitted in ACE.

However, using ACE and the APHIS Core Message Set has many advantages over submitting paper entries. For example, because the data needed to clear incoming shipments is immediately available to CBP and APHIS in ACE, officials can help troubleshoot any issues before they cause delays at the port of entry, which can result in fewer holds and faster release times.

At Shapiro, we are dedicated to ensuring you are ready to capture and transmit the required data elements in compliance with APHIS requirements.

If you have any questions about this development, please reach out to compliance@shapiro.com.

TRANSPORTATION NEWS:

COVID-19 Cargo Flow Leads to Port Congestion and Blank Sailings

At the beginning of April, container lines and ports anticipated an influx of congestion troubles as news spread that warehouses were closing due to the massive pile-ups of cargo that are unable to be distributed down the supply chain during the Coronavirus outbreak.

As a result, carriers, including Mediterranean Shipping Company (MSC), began offering "Delay In Transit" programs to their beneficial cargo owner (BCO) contract holders. These programs allowed "non-essential" cargo to be held outside of the marine terminal hubs to reduce detention and demurrage costs after free time.

Similarly, APL, Maersk, and Hapag Lloyd worked with their customers to accommodate a variety of needs. They also encouraged customers to utilize any of the options made available to them in an added effort to reduce barriers to distribution for "essential" cargo.

The Federal Maritime Commission (FMC) was actively engaged in the conversation to ensure that communication flowed between the right stakeholders. Among such stakeholders were the port authorities in New York and New Jersey, Georgia, Virginia and South Carolina, each of which independently investigated storage options and prepared to accept the cargo as it came.

As the surge of incoming orders began to weaken in recent weeks, carriers have shifted focus to vessel capacity utilization, in an effort to influence the efficiency of their service offerings.

Importers can expect a reduction in services in the coming months, as carriers continue to add blank sailings to their schedules. Through mid-June, North American trade will see a total of 64 sailings removed from service rotation, including a 25% decrease in vessel capacity to the U.S. West Coast and a 20% decrease in vessel capacity to the U.S. East Coast.

While some routines may experience disruptions as a result of voided sailings, the cargo will still be able to move without the threat of port congestion.

Worried about your cargo being affected by blank sailings? Contact our transportation experts today!

Airlines Adjust Operations in Response to Pandemic's Impacts

The impact that COVID-19 has had on airlines around the world has resulted in widespread calls to transform operations and cost structure issues across the industry. At this time, it is estimated that the airline industry has experienced a total of $314 billion in losses, as passenger volumes are down 96% and flight cancellations have reached more than 70%.

The mitigation of operating costs has been a necessary measure in response to the current market conditions. Airlines are re-purposing some of their grounded jets to accommodate spiking demand for air cargo. Furthermore, many airlines have proactively analyzed potential strategies that could address and offset the anticipated reduction in revenue; thus far, these have mainly focused on financing, operating costs, and unique solutions to help accommodate cargo demand.

American Airlines, which received around $5.8 billion in federal stimulus funds, plans to pursue $4.75 billion in additional loans and grants in order to keep operations running. The company announced that it intends to use the federal funds to ensure that no workers lose their jobs through the end of September 2020, although they did admit the likelihood that pay reductions could soon be seen by many employees.

Similarly, Delta, which received a $5.4 billion grant in federal aid, has also announced plans to offer $1.5 billion in bonds, as well as plans to borrow $1.5 billion over the next three years. In Delta's April 22 earnings call, CEO Ed Bastian announced that the company had cut $5 billion in operating costs for Q2 through a reduction in employment (37,000 employees had elected to take unpaid leave), lower fuel costs, and slashing fuel consumption due to reduced flights.

Don't hesitate to contact our airfreight specialists with any and all questions related to capacity and rates.

FMC Makes Final Ruling on Detention and Demurrage Fairness

In September 2019, the Federal Maritime Commission (FMC) approved interpretive rulemaking recommendations to judge whether levied detention and demurrage fees incentivize the retrieval of cargo and return of containers. The purpose of the recommendations is to help the FMC handle disputes between cargo owners, drayage drivers, and the carriers and terminals that charge the fees.

Upon their approval last year, the recommendations were open for public commenting. From there, the FMC reviewed the comments and finalized amendments to the original recommendations. In order to go from approved to effective, the rule must be published in the Federal Register, however interested parties reported seeing no public progress on this process. Because of this, more than 65 groups representing various links in the supply chain took matters into their own hands and urged the FMC to adopt the new rule in March 2020.

Shortly after this, 80 organizations "representing virtually every sector in the US food and agriculture supply chain" sent a letter to the National Economic Council and the United States Department of Agriculture (USDA) urging them to engage with the FMC regarding Fact-Finding No. 28 (FF No. 28) and the still-pending interpretive ruling on the application of detention and demurrage. On April 6, the FMC advised that the Innovation Team(s) for FF 29 would begin work on solutions to provide relief to challenges faced by the shipping community due to COVID-19.

On April 28, the FMC announced that it will adopt a final rule on the "reasonableness" of detention and demurrage charges. Officials expect to publish the final rule in the Federal Register within two weeks.

Because violations do not result in penalties for marine terminals and container lines, many cargo owners and their representatives do not file actual complaints about demurrage and detention. In the cases that the FMC does consider, they will look at the way the fees are communicated to cargo owners and truckers to govern if the fee is reasonable. A fee's fairness is measured by whether it incentivizes the pick-up of import containers and the return of empty containers.

A notable addition to the final version of the ruling asks the agency to consider cargo placed on hold by U.S. Customs to be within their judgement. As such, each case will be decided based upon the facts present to the administrative judge, since there can be variation from scenario to scenario.

Need assistance? As always, we recommend partnering with Shapiro to help you mitigate any additional charges by making sure your cargo is moved timely.

FAA Reduces Operational Hours For 100 Control Towers

On April 22, the Federal Air Administration (FAA) announced plans to reduce the operating hours of approximately 100 US control towers in an effort to keep air traffic controllers and airspace safe during the Coronavirus pandemic.

In early April, the FAA implemented team rotations to contain workplace exposure and limit the spread to help curtail the number of incidents involving control towers needing to be shut down to disinfect facilities in which employees test positive for COVID-19.

The FAA will continuously analyze traffic patterns and monitor the operating environment throughout the National Airspace System (NAS) to ensure that it maintains adequate staffing levels. It will also make changes to increase supply efficiency, support workplace social distancing and rely on Regional Radar Facilities for coverage, as necessary.

Most of the reductions will apply to the overnight operations in Class C and D airports, as these airports are typically smaller and served exclusively by domestic airlines that have been disrupted by the decreased travel.

While no end date was given, the FAA stated the measures are only meant to be temporary.

Domestic Truckers and Warehouses Struggle to Maintain a Healthy Pace

U.S. truckers began to feel the pain of COVID-19's restrictions months ago, as truck and rest stops quickly closed and on-the-road dining options diminished coast to coast. As a result, warehouses and truckers alike have developed a more cautious approach to their supply chain interactions in order to lower the risk of exposure to their workforce and customers.

As the country enters its eighth week of social distancing practices, the trucking industry continues to evolve with the shifting landscape. One of the greatest effects of the recent changes is the exponential increase in waiting and unloading times. This jump can be attributed to a combination of factors, including:

1. Warehouse labor shortages have developed as a result of employees falling ill or choosing to stay at home to protect themselves.
2. On-site safety measures that warehouses have established, such as mandatory temperature checks and health screenings for visitors, have resulted in extra steps that truckers must make at the time of cargo pick-up or delivery.
3. Trucks carrying certain commodities can be a cause for detention. If cargo is being delivered to a big box chain carrying "essential" goods, the likelihood of a line is much higher.

While current trucking capacity availability remains largely unharmed to importers and exporters, the time spent per load is suffering greatly. For now, the best thing that importers can do to reduce their detention is to proactively communicate any changes or pertinent information with their supply chain providers as they emerge.

SHAPIRO NEWS:

COVID-19 Supply "Pain" News:

This weekly review of the supply chain world provides key insights into the many things that have been affected by the COVID19 coronavirus. From the U.S. trucking industry conditions to global airfreight, Shapiro touches on the pressing news that logistics managers need to know. Check our Coronavirus News page weekly to ensure that you don't miss key industry insights that are constantly evolving!

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Issue #4 - April 8

Issue #5 - April 15

Issue #6 - April 22

Issue #7 - April 29

Employee of the Month:

As previously featured in Shap Talk, Shapiro 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 **Kim DeVoe, Sr. Credit Analyst**.

For the past few weeks, there has been a high priority for the Shapiro collections team, including Kim. They have been devoting (or should we say DEVOE-ting) countless hours towards collecting past due statements from customers. The team has also added a few extra hands from Shapiro personnel outside of the accounting department and Kim has stepped up to provide additional training to anyone needing assistance. Simply put, Kim has been a rockstar throughout the COVID-19 mess. Congratulations, and thank you, Kim!

We encourage you to provide us with employee feedback! Please email us at hr@shapiro.com.