SHAP TALK

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TRADE NEWS

Republican Senators Take Aim at Unions for Port Slowdowns

Senator James Risch, R-Idaho, presented the Preventing Labor Union Slowdowns Act of 2015, on June 18th in response to the debilitating contractual dispute that plagued West Coast ports for the past eight months. The bill would give the National Labor Relations Board (NLRB) the power to strip accreditation of any union that deliberately slows down operations in any U.S. port. The bill stated:

"Experience has demonstrated that frequent and periodic disruptions to commerce in the maritime industry in the form of deliberate and unprotected labor slowdowns at the ports of the United States have led to substantial and frequent economic disruption and loss, interfering with the free flow of domestic and international commerce and threatening the economic health of the United States, as well as its citizens and businesses. Such frequent and periodic disruptions to commerce in the maritime industry hurt the reputation of the United States in the global economy, cause the ports of the United States to lose business, and represent a serious and burgeoning threat to the financial health and economic stability of the United States."

Other Republican Senators, John Thune, South Dakota, and Cory Garner, Colorado, echoed the importance of U.S. port productivity by introducing their own bills: one to improve performance reporting, and the other to provide more Taft-Hartley Act powers to be granted to state governors, respectively. Clearly, the latest West Coast port dispute has left scars the industry and the U.S. public will not be able to ignore any time soon.

FDA Announces Voluntary Qualified Importer Program (VQIP) for Food Importers

The Food Safety Modernization Act (FSMA) requires the Food and Drug Administration (FDA) to establish a voluntary, fee-based program for the expedited review and importation of foods from importers who achieve and maintain a high level of control over the safety and security of their supply chains.

Importers who have at least a three-year history of importing food to the United States with no ongoing FDA administrative action (i.e. importer alert, recall, etc) may be eligible to import foods from a facility (or farm) certified for food safety practices.

Approved VQIP importers will receive expedited entry into the United States including examination and sampling of food entries in "for cause" situations when there is a potential public health threat.

The draft guidance for the industry is available at www.fda.gov. FDA is accepting comments before working on the final version. For applications scheduled for acceptance in January 2018 (and for the first year of the program), FDA is estimating that a flat annual fee of approximately $16,400 will be paid by all VQIP participants.

COOL Revision to Keep Peace

Country of Origin Labeling (COOL) legislation has long been a point of contention between the U.S. and its neighbors, Mexico and Canada. In May of this year, the World Trade Organization (WTO) found the United States' COOL policy to be discriminatory against animal products originating from Canada and Mexico. U.S. retailers and producers are required to place country of origin labels on all meat products, and the WTO found that the required COOL provided the U.S. with an unfair market advantage as consumers gravitated toward products originating in the U.S. despite numerous claims from the USDA that country of origin has no effect on the safety of consumable meat products. Furthermore, neither Canada nor Mexico require retailers or producers in their countries to abide by similar COOL. In light of the WTO's May ruling, both Canada and Mexico have been granted permission to introduce retaliatory tariffs on a myriad of U.S. products which could result in over $3.5 billion in retaliatory measures.

Earlier this month, the House of Representatives voted to repeal COOL in an effort to avoid the retaliatory measures sanctioned by the WTO, but the measure will still need to pass through the Senate. Despite the good intentions surrounding the decision to repeal COOL, many U.S. consumer and producer advocacy groups are left dismayed. The groups feel U.S. producers should be supported and the consumers have the right to know where their meat comes from. In an effort to quell the tension between the U.S., its neighbors, and consumer/producer advocacy groups, Senator Debbie Stabenow, D- Michigan, proposed a revision to COOL legislation that negates the 'required' status of COOL and makes it a voluntary practice on beef and pork products.

Stabenow's revision has many proponents and many opponents. However, both sides agree that the revision is likely to be rejected by the WTO, as it invokes no real change. In addition, Canada and Mexico have already expressed their outrage at Stabenow's draft, each claiming they will continue to pursue retaliatory measures. The Senate will vote on the new draft shortly, but COOL will likely be an ongoing dispute for the foreseeable future.

RILA and CPSC Butt Heads on Electronic Certificate Filing Pilot

What started as collaborative discussions between the Retail Industry Leaders Association (RILA) and the Consumer Product Safety Commission (CPSC) has quickly deteriorated into public finger pointing over the controversial electronic certificate filing pilot program. While the groups have been communicating since the pilot program launched in May of 2013, the CPSC has not deviated from the original program requirements or incorporated significant industry feedback.

The crux of the issue is the degree to which importers will be required to e-file certificates of compliance at the entry line level. RILA has maintained that the program will impose a significant cost on the importing community. At the moment, the pilot requires 10 data elements the CPSC believes are needed to improve surveillance targeting. While the CPSC deliberates, its chairman, Elliot Kaye, has requested a detailed cost analysis to see how the program will impact the industry before publishing their alpha pilot.

Export-Import Bank Temporarily Barred from Generating Future Loans

The Export-Import Bank (Ex-Im) officially closed its doors to new lendees as of June, 30th 2015. Despite last ditch efforts by the Democratic leadership within the House and the Senate to refute negative Republican sentiment surrounding the bank, the agency's charter was not renewed before Congress departed for a week-long recess.

The decision, or lack thereof, came amid much debate between Republican and Democratic representatives regarding the bank's pragmatic functionality. Ex-Im, which was envisioned to be the champion of developing and facilitating foreign trade for small and large businesses alike, now only facilitates 2% of U.S. exports. Though Ex-Im has often been lauded for helping small businesses gain a stronger foothold in a global marketplace, two Fortune 500 companies received nearly 40% of the bank's financing for the 2013 fiscal year.

This will be the first closure in the bank's history, which spans nearly 81 years. As of June, 30th, Ex-Im is barred from generating new loans, but employees will continue to report to work to fulfill contract obligations that require Ex-Im to service existing loans. Existing loans could keep Ex-Im's doors open for another decade, giving Congress more than adequate time to reach consensus regarding reauthorization of the bank's charter.

Export Control Reform

Several rules were issued recently by The Department of Commerce and the Department of State that play an essential role in the Export Control Reform effort and the processing of export transactions. The "Cybersecurity Rule" is getting a lot of attention, and pressure mounts to extend the comment period which was just issued on 05/20/15.

Please view all of the recently published rules on the BIS Website.

The "Definitions Rule"

On June 3, 2015, the Department of Commerce's Bureau of Industry and Security (BIS) and the Department of State's Directorate of Defense Trade Controls (DDTC) published concurrent rules establishing legal definitions of "technology," "required," "peculiarly responsible," "proscribed person," "published," "results of fundamental research," "export," "re-export," "release," "transfer," and "transfer (in-country)" to enhance clarity and consistency with terms found in the International Traffic in Arms Regulations (ITAR) and the Export Administration Regulations (EAR).

To assist the trade community in analyzing these rules, BIS and DDTC produced a side-by-side definitions comparison document on their websites. Exporters must be familiar with these definitions as they are a fundamental part of understanding the legal export process.

BIS and DDTC are making an effort to have both sets of regulations more consistent with one another. This has been an ongoing effort with both the Department of Commerce and Department of State, and they have put a great deal of time and effort in working together to move the Export Control Reform (ECR) effort forward.

The goal of both the DDTC and BIS is to facilitate enhanced compliance and reduce regulatory burdens by eventually creating a single export control list and licensing regime instead of having the United States Munitions List (USML) and Commerce Control List (CCL).

DDTC issued a fact sheet and created a chart of the proposed regulatory text side-by-side from the ITAR rules and the EAR rules. On June 10, 2015, Assistant Secretary for Export Administration, Kevin Wolf, hosted a special 90-minute BIS teleconference which added additional clarity for comparing the definitions, and we anticipate that this recording will be available to the public on the BIS website soon.

Both departments will accept public comments until August 3, 2015. Please note that the final rule will become effective 30 days as of its day of publication.

Category XIV Toxicological Agents & Category XVIII Directed Energy Weapons

In the June 17, 2015 Federal Register, the Department of Commerce and the Department of State issued concurrent rules under Export Control Reform. In these articles, the President has determined that Category XIV (Toxicological Agents, Including Chemical Agents, Biological Agents, and Associated Equipment) or Category XVIII (Directed Energy Weapons) of the United States Munitions List (USML) no longer warrants control under the Commerce Control List (CCL). The affected Category XIV articles consist primarily of dissemination, detection and protection "equipment" and related articles and would be controlled under new Export Control Classification Numbers (ECCNs) latest proposed "600 series" items are1A607, 1B607, 1C607, 1D607, and 1E607.

The affected Category XVIII articles consist primarily of tooling, production "equipment," test and evaluation "equipment," test models and related articles and would be controlled under new "600 series" ECCNs 6B619, 6D619 and 6E619.

The BIS Rule can be found here: https://federalregister.gov/a/2015-14474.

The State Rule can be found here: https://federalregister.gov/a/2015-14472.

The public comment period closes on August 17, 2015.

TRANSPORTATION NEWS

July 2015 Update

INDUSTRY NEWS:

CMA-CGM, MSC, Maersk Increase Global Market Share

The top three ocean carriers, CMA-CGM, MSC, Maersk, have continued to increase their global market share over the past decade. The three companies combined share of global container capacity stands at 38%, up from the 26% they controlled ten years ago. The increase has been driven by organic growth from new ship deliveries coupled with many mergers and acquisitions of competing companies.

In an attempt to survive, medium-sized carriers have been purchasing mega ships to grow their fleets and keep up with the top three goliaths. Unfortunately, by purchasing so many mega ships, the prices for these vessels has spiked significantly due to increased demand. The advantage for shippers and importers across the globe is that most carriers are now holding extra capacity which drives freight rates to lower and lower.

Same-Day Delivery, Omni-Channel, Technology, Oh My!

A Google search for "same-day delivery" reveals the names of industry shipping and retail giants, Amazon and Walmart. These mega retailers have realized the need for "faster-than-next-day" delivery and have partnered up with mega couriers to expand their same-day services. Recently, the demand for "same-day" offerings has become HOT. Retailers with strong local markets are realizing that this new wave of consumer demand is unavoidable, unstoppable, and, in a way, bittersweet. On one hand, the local brick-and-mortar retailer is facing a growing craze that screams high costs, thin margins, and a need to have a flawless inventory system – a challenge many retailers have yet to tackle. On the other hand, same-day delivery offers local retailers a "one-up" in the online shopping world. A shipment delivered locally (within 50 miles), is only likely to be delivered if it originates from a local warehouse. The majority of online only merchants have at most a handful of warehouses nationwide.

The challenges faced to achieve profitable same-day delivery are vast. In a nutshell, inventory controls must be top notch, transportation capacity must be flexible, and technology capabilities must be reliable. With all these challenges and the inability to necessarily plan ahead for same-day services, the question remains, is same-day delivery sustainable and how can logistics service providers aid retailers in their battle against time to offer the very best and fastest deliveries possible?

In order to attempt to answer that question, we have to look at a simultaneous trend in the retail world: Omni-channel. Defined in an article appearing in Forbes magazine, "Omni-channel is a reflection of the choice that consumers have in how they engage a brand, and therefore is best represented as how brands enable their clients and consumers to use these channels to engage with them." In other words, the retail world allows the consumer to make purchases in a variety of ways, from online ordering via computer and mobile devices, walk-in purchases in brick-and-mortar locations, and online ordering with a pick-up in store option. So, now to add to these options, the idea of same-day delivery is taking the Omni-channel world to the next level by offering online ordering with home delivery, all in the same day.

To manage cargo in the Omni-channel world, the logistics industry is seeing the increasing need to offer customers full visibility of their shipped products. According to Logistics Management magazine, when reporting on technology research conducted by leading research firm, Gartner, "For 2015…'the difficulty or inability to coordinate and synchronize end-to-end supply chain processes' [was listed as] the top gripe for shippers across the board." Though this dilemma is not easy to overcome, logistics service providers are here to help retailers face the challenge.

So is same-day delivery sustainable? Yes, with the knowledge, resources, and technology that logistics providers offer, same-day delivery will become a common service in the near future.

Check us out! http://www.shapiro.com/supply-chain/

Seafaring Semantics in Southeast Asia

In mid-May, a report by the Singapore Shipping Association provided a step towards better understanding the potential risks to merchant vessels traveling in Southeast Asia waters. The association determined that only about 14 percent of reported attacks on merchant vessels could be classified as "piracy," with over 85 percent of attacks falling under the "armed robbery" classification.

While the distinction might appear to be minor, the semantics highlight the differences between the attacks faced by merchant vessels in Southeast Asia and vessels in the Gulf of Aden. Vessels in the Gulf of Aden are far more likely to be the victims of piracy than those on the open seas, who are more likely to experience being captured and ransomed. In Southeast Asia, armed robberies are far more likely to occur and a full 46 percent of such attacks occur in port or at anchorage. Such attacks also tend to be less expensive and harmful to the crew, with more than two thirds of attacks involving petty theft by unarmed perpetrators and no harm to crew members.

These findings change the narrative on attacks in Southeast Asia, which are generally mislabeled as acts of piracy, instead of armed robberies. The focus on this distinction also allows for a clearer allocation of responsibilities for protecting vessels. Merchant vessels must seek protection from the navy or coast guard of their flag of registry for acts of piracy, due to the international nature of the threat. Armed robberies, however, are classified as attacks within the littoral zone of a state, and protection of merchant vessels would fall within the jurisdiction of the relevant state.

Multiple Stevedore Strikes Threaten Santos and Brazil

As reported in the JOC, administrative port workers represented by Sindaport & the Santos Union of Stevedores (Sindestiva) are threatening strikes in response to two separate stalled negotiations.

Sindaport is the largest of several trade unions representing administrative trade workers in Santos.

Port workers represented by Sindaport voted to strike on June 29th and plan to paralyze all port activity to press terminal operators and negotiators to meet their contract demands. Sindestiva is threatening strikes against five out six terminals to press negotiators to meet their union contract's demands. They are seeking pay raises, increased pensions, and a continuation of their current 50-50 division of jobs between union and non-union workers.

Furthermore, throughout Brazil, various branches of Brazilian port unions are calling for a national strike at the end of June or early July if various employers throughout Santos like CODESP, the port authority for Santos, do not make satisfactory progress in negotiations.

One of the biggest issues unions are facing is the alarming trend of farming out various port operations and terminals to private operators. For instance CODESP still employs 1,400 workers, but they have stated they could operate with about half that number and are planning to reduce workers further by outsourcing dredging operations.

OCEAN FREIGHT

Trans-Pacific Market Faces General Rate Increase on July 1.

The carriers in the Trans-Pacific import market are pushing for a General Rate Increase (GRI) of $480 to $540/20', $600/40', $675/40'HC, and $760/45' as of July 1. As the industry heads into Peak Season, carriers are achieving only 90 to 95 % vessel space utilization to the USEC and roughly 85% vessel space utilization to the USWC. The actual dollar amount for the July 1 increase is not expected to hold at the full "advertised" numbers. Increases of $200 to $300 per 40' seem to be more realistic in this market. Nonetheless, the carriers are going to push for a FULL GRI in July since their rates have been depressed for the month of June to non-compensatory levels. The carriers in the Trans-Pacific import market also announced a Peak Season Surcharge (PSS) of $360/20', $400/40', $450/40'HC, $506/45' for July 15, 2015.

The Export market has no major GRIs forecasted for July 1.

Northbound South America GRIs and Service Changes Announced

Hapag-Lloyd announced a July 19th GRI of $325/20' & $500/40' on its service from the East Coast of South America (ECSA) to the US, Mexico, Caribbean, and Central American ports.

This increase comes amid a recent carrier shake-up of vessel sharing agreements along this service. MSC recently joined Hapag-Lloyd and NYK on their Joint GS1 Service from ECSA to the Gulf.

MSC has also partnered with Hamburg-Sud on their ECSA to USEC service.

MSC currently holds a 26% market share on this trade lane with Hapag-Lloyd just behind them with 20%.

Suez Canal Opens New Route

On August 6, the Suez Canal will officially open a new 44-mile canal alongside the original 100 mile-long canal enabling two-way traffic along a section of the waterway to significantly decrease wait times.

The Suez Canal is one of the busiest and most important waterways in the world as it allows ships to travel between Europe and South Asia while avoiding the long journey around the African continent. The Canal is strategically important to all ocean carriers since it has become important for many all-round-the-world service offerings to and from North America as well.

AIR FREIGHT

Air Freight Benefited from the West Coast Port Congestion

The chronic congestion at U.S. West Coast ports drove emergency cargo from ocean to air boosting early month totals in 2015. According to the Association of Asia Pacific Airlines (AAPA), Asian air cargo carriers recorded a 6.3 percent increase in demand for international air freight this year compared to the same period last year.

Drewry noted in its Container Insight Weekly that air freight prices for U.S. imports spiked in November of last year as importers, desperate to have their stocks ready for the Christmas holiday season, opted to send some shipments via air.

The International Air Transport Association (IATA) attributes the unusual spike in traffic to two things: a) the timing of the Chinese New Year, which tends to be accompanied by increased movement of goods and people; and b) the congestion at U.S. ports, because of the lengthy labor dispute resolved in late February.

The impact on air freight from the West Coast port congestion is beginning to ease off. Container terminals in Southern California are reporting operations almost back to normal. Drewry analysts have reported Asia to U.S. rates have regressed after the end of the shopping season and continue to slide as U.S. port operations have improved.

"International air cargo markets recorded further growth in May, albeit at a moderate pace, compared to the preceding months when demand was boosted by congestion in U.S. West Coast maritime ports," said Andrew Herdman, AAPA director general.

New Airline Routes Announced

Polar Air Cargo, an all-cargo freighter carrier with its hub in Cincinnati, announced new bi-weekly service to Shenzhen China. Polar offers set special trucking services feeding its hub from Northeast and Mid-Atlantic origins with direct service options to several main Asia destinations as well as destination inland road feeder service. Service is scheduled to start July 1st.

This June, Hainan Airlines added Shanghai Pudong to their direct Seattle and Boston schedules already flying from Beijing. Passenger A330-200s and 787-8s and are planned on the routes, respectively.

Eva Air introduced 3x weekly Taipei to Houston passenger wide-body service.

Tam Airlines added Brasilia to their Orlando daily with passenger service utilizing the 767-300.

DOMESTIC NEWS

Domestic Transportation Jobs Surge

The number of job openings in the U.S. transportation, warehousing, and utility industry sectors has jumped 70.4 percent year-over-year in April to reach its highest peak in the last ten years. This job growth shows confidence in the marketplace for imports, exports, and domestic cargo moving across the U.S. this summer and into the holidays.

LTL trucking business is booming as the U.S. economy expands putting pressure on domestic trucking firms. Large companies such as Old Dominion Freight saw their LTL business jump 9.7 over last year and Landstar Trucking reported hauling more loads in the first eight weeks of the second quarter of 2015 than it did in any comparable period in company history.

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 Erik Hoffman, Programmer Analyst in Baltimore for his 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.