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WE WANT TO HEAR FROM YOU!

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TRADE NEWS:

USTR Announces Comment Period for Fifth Round of Section 301 Exclusion Extensions

The office of the U.S. Trade Representative (USTR) is seeking comments regarding the extension of exclusions on [the fifth set of exclusions, granted in June 2019](#), which are currently set to expire on June 4, 2020. This extension would add another year of validity to the current product exclusions.

The USTR's evaluation will primarily focus on the ability to produce the excluded products outside of China (i.e. if the product can be adequately produced outside of China, then it is unlikely an exclusion will be extended).

The fifth round of Section 301 exclusions covers 89 HTS subheadings; it is very likely that not all products/HTS subheadings that were originally granted exclusions will receive extensions.

The USTR will begin accepting comments on April 1, 2020 using docket number USTR-2020-0013. Comments are due by April 30, 2020. To submit a comment regarding the extension of a particular exclusion granted in the fifth round, commenters must first register on the [USTR portal](#).

The [Federal Register Notice dated March 20, 2020](#) provides a summary of the information to be entered on the exclusion extension comment form.

Please reach out to compliance@shapiro.com for assistance with your Section 301 filings!

Lacey Act Declaration - the New de Minimis Exemption

Earlier this month, the Animal and Plant Health Inspection Service (APHIS) amended the declaration requirement of the Lacey Act to include a new minimis exemption for importers. Under the new rule, importers will not have to submit declarations for products with a minimal amount of plant material effective April 1, 2020.

According to APHIS, this action will "relieve the burden on importers while continuing to ensure that the declaration requirement fulfills the purposes of the Lacey Act," which was originally established on December 15, 2008.

The de minimis exception will apply to all products subject to the Lacey Act where "the plant material in a product represents no more than 5 percent of the total weight of the individual product unit, provided that the total weight of the plant material in an entry of products in the same 10-digit provision of the Harmonized Tariff Schedule of the United States does not exceed 2.9 kilograms."

In other words, importers will not have to submit the Lacey Act declaration on products:

- Containing 5% or less plant material by weight
- Limited at 2.9 kgs at the entry line level

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Importers should be aware that the exemption does not apply to species of conservation concern that are registered as an endangered or threatened species under the Endangered Species Act. Click [here](#) to view the appendix of concerned species from the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

For instances in which the plant material's weight cannot be determined, APHIS considered applying exemptions based on its volume and value, but later determined that the implementation of this rule would present challenges. Therefore, it will not be adopted at this time.

APHIS advised that they would continue to consider ways to implement the de minimis exemption based on criteria other than weight.

Click [here](#) to view the notice published in the Federal Register.

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

Tips and Reminders About Tax Reform and CBMA Forms

Across the industry, reports indicate that many of the [Craft Beverage Modernization Act \(CBMA\)](#) claims are incomplete, meaning they have missing, incomplete or inaccurate documents, which may result in the liquidation of entry at the higher non-CBMA rate and/or enforcement action.

Importers who take advantage of the tax refund must ensure that they have received the proper support documentation from their foreign supplier prior to claiming the reduced tax rate.

U.S. Customs and Border Protection's (CBP) CBMA Procedures and Requirements 2020 bulletin, [CSMS #41471157](#), provides instructions and requirements for completing a CBMA claim.

For a CBMA claim to be deemed complete, the importer must complete the [CBMA Spreadsheet](#), [Controlled Group Spreadsheet](#) and [Assignment of Certification](#). Click [here](#) to access CBP's templates for each of these documents.

CBP strongly encourages any importers that are claiming a reduced tax rate or tax rate incorporating applicable tax credits as permitted by the CBMA (hereinafter "CBMA rate") for importations made during the 2020 calendar year to do so at the time of entry summary.

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Below are some tips to keep in mind when completing the CBMA forms:

- Always complete all three substantiating documents when filing a CBMA claim.
- Do not modify the structure or formatting of the substantiating documents.
- Follow the proper file naming conventions and use the appropriate document labels in ACE/DIS.
- Controlled Group Spreadsheets and Assignment Certifications are associated with Importer of Record; CBMA spreadsheets are associated with entry numbers.
- Remember that controlled group relationships are defined by relationships between producers – not importers.
- Coordinate closely with other products in your controlled group to confirm you are not exceeding your CBMA quantitative limit.

CBP reviews and liquidates entries with a CBMA claim on a monthly basis, in chronological order based on the entry date, beginning with the oldest and working forward.

CBP will liquidate the entry and apply the reduced CBMA rate if:

- The reduced rate or CBMA rate is claimed at the time of entry;
- The claim was submitted properly, with complete and accurate supporting documents; and
- Meets the above criteria

For claims not made at the time of entry but via a PSC or Protest, there is no guaranteed timeline for the claims to be reviewed, processed and approved for refund.

Questions about CBMA claims? Please reach out to compliance@shapiro.com.

TRANSPORTATION NEWS:

COVID-19's Ripple Effect on Couriers

Delays for USPS, UPS, DHL, and FedEx could endanger timely delivery of crucial original documents, freight payments, and medical supplies. Thankfully, as of right now, there are no major delays reported. However, there is growing strain and concern due to the rapid spread of the Coronavirus to drivers and warehouse sorters alike. Several couriers have even resorted to suspending their Service Guarantees for all U.S. origin shipments at any service level.

With services now being diverted to urgent medical supplies, Amazon Prime is running a month behind schedule on its "non-essential orders." UPS handles a large part of these by ground.

But what about "couriers" (UPS, DHL, FedEx, & USPS) delivering original bills of lading, check payments to steamship lines, and documents for US Customs?

Logistics companies have moved towards a "paperless" environment but still utilize couriers daily. These couriers are part of a service community delivering \$18 trillion worth of goods every year, but also time-sensitive contracts, agreements, and payments. With "non-essential" businesses such as law and architecture firms sidelined, there should be excess capacity.

Reports indicate UPS is running on a normal schedule in the United States. Most companies have issued blanket statements that simply instruct their customers to "call their account managers or sales reps" for assistance. Accounts representatives are often cautiously suggesting leaving "buffer days" versus the normal just-in-time overnight mindset due to the shifting landscape of coronavirus.

Many couriers, including UPS & FedEx, have waived signatures. That means no shared pens and no need to get within six feet of customers.

Couriers such as UPS are considered "critical infrastructure" by the Department of Homeland Security (DHS), so they will continue to pick-up and deliver in restricted areas, especially if they are working with customs brokers, freight forwarding, truckers, piers, CFSs, airlines, and steamship lines (essential services).

DHL issued a short statement about protecting their facilities and employees; they are prepared to take operational measures in the event conditions shift.

The United States Postal Service has at least 20 postal workers with the virus as of last week. The head of the National Postal Mail Handlers Union told the NY Times that workers were sick in Miami, New York City, Seattle, Portland, and other cities. However, that's a small number right now given the agency's roughly 630,000 employees and wide, thoroughly tested network of hubs.

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Industry Lobbies FMC to Improve Detention and Demurrage Fairness

In a letter to FMC Chairman Michael Khouri dated March 16, 2020, 67 trade organizations urged the Commission to adopt its previously proposed Interpretive Ruling on Detention and Demurrage. The groups expressed concern that the current Coronavirus crisis would create additional challenges at marine terminals, leading to hardships within the shipping community should [detention and demurrage](#) be unfairly billed when containers are not, in fact, available for pick up or when empties cannot be returned due to factors beyond the shipper or importer's control. In the original Notice of Proposed Rulemaking, Commissioner Rebecca Dye noted that detention and demurrage were to be used as tools to incentivize efficient terminal and equipment velocity.

Some industry groups have indicated that detention and demurrage are being used as a punitive measure when:

- Containerized cargo is not truly available for pick-up at the pier
- Terminals experience closures
- Appointments are not available
- Empty containers cannot be returned

With terminal closures increasing due to waning cargo volumes as well as circumstances surrounding the Coronavirus pandemic, pressure is mounting on importers and exporters to maintain cargo velocity while working within tighter and changing terminal timeframes and an ever-evolving work environment. These closures have varied from shortened shift hours, single-shift closures, to whole day closures. Major ports including LA/Long Beach, Miami, Baltimore, Seattle and Houston have all announced some form of terminal closures in recent weeks.

While the interpretive rule has not been made official, guidance within the rule suggests that the Commission would find detention and demurrage to be unreasonable in the following instances:

- "...if a cargo interest or its trucker cannot retrieve cargo from a marine terminal because the cargo is not available for retrieval due to circumstances such as weather, port or terminal closures, the container is in a closed area, or government inspections of the cargo, demurrage would not serve as an effective incentive for cargo retrieval."
- "...demurrage and detention practices and regulations that do not provide for a suspension of charges when circumstances are such that demurrage and detention are incapable of serving their purpose would likely be found unreasonable."
- "... if cargo cannot be retrieved, or empty containers cannot be returned due to a lack of appointments, demurrage and detention cannot incentivize cargo retrieval or equipment return."
- "...practices and regulations that result in detention being imposed when a container cannot be returned weigh heavily in favor of a finding of unreasonableness. The paradigmatic example is that if the marine terminal designated by an ocean carrier refuses to accept empty containers, no amount of detention can incentivize the return of those containers."

As always, we recommend partnering with a Customhouse broker and [freight forwarder](#), like Shapiro, that helps you mitigate these additional charges by making sure your cargo is moved timely.

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Airlines and Airfreight During the COVID-19 Pandemic

The state of airlines and airfreight during the COVID-19 Pandemic is rapidly changing. There will be long-term revenue losses for U.S. and global passenger fleets, but explosive growth for cargo moves. A massive stimulus package from Congress may boost airlines, but only a return of passengers will save them. Currently, the airline industry is estimating losses in 2020 at over \$250 billion (US).

As of March 25, GE Aviation announced that it will cut 10% of its workforce. Major airlines are drafting plans for a voluntary shutdown of almost all passenger flights across the U.S., and planes moving “essential” cargo are facing disruptions created by closed airports, shuttered air cargo handling facilities, and uneven staffing realities for airline support personnel.

After the virus infected air-traffic controllers, the FAA had to shut towers down and relocate employees. Fortunately, the FAA has battle-tested back-up plans to handle emergencies.

Due to the spread of the virus, air cargo charter companies are reporting booming business. Since approximately 60% of air cargo capacity comes from the global passenger fleet, the remaining 40% is in high demand. Global air cargo rates have eclipsed historical highs, and U.S. consumers ultimately foot that bill.

However, there is encouraging news recently, as airlines reveal plans to re-fit passenger aircrafts to handle cargo, although those plans are not yet clear.

The Truth About Transshipped Containers

Ocean Insights recently partnered with the Journal of Commerce (JOC) to publish the results of an analysis that revealed jarring data about transshipment rolls. The analysis shows that more than 1 in 5 transshipped containers were rolled from their scheduled departure in the second half of 2019. The breadth of data indicated that more than 1 million containers were affected in the 6-month period. This ratio increased when the analysis was limited to only the world's largest carriers.

Industry professionals affirmed that, while rolls were out of their control, the biggest obstacle was the lack of information. A logistics director for a 20,000 TEU European importer guessed that his company was informed less than 5% of the time.

Ocean carriers explained that when around 30% of containers don't show up for the scheduled sailing, they are motivated to overbook. This is only one reason why a container may be rolled.

This information comes amid the worldwide COVID-19 outbreak from which China is rapidly recovering. Carriers have already begun repositioning containers from the U.S. West Coast to China in anticipation of rolled containers. Retailers and non-vessel-operating common carriers (NVOCCs) are also predicting a cargo surge. In order to avoid cargo disruptions, importers should act early and anticipate delays.

Worried about your cargo being rolled this spring? Contact our [transportation experts](#) today!

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The Landscape of Domestic Trucking Amidst Coronavirus

The domestic trucking industry is watching as COVID-19 restrictions and recommendations are announced in various U.S. states. At the peak of the restrictions in China, the trucking workforce was geographically restricted from free movement into certain localities. Once production resumed, exporters and steamship lines observed capacity reductions which impacted the flow of cargo. At this time, the U.S. is not seeing anything quite as strict.

Most of the impact, so far, is not visible to the public. Some truckers are being asked about their exposure as they arrive to warehouses. Others are choosing to self-quarantine at rest stops and avoiding buffet style meals. In New Jersey, mandated early retail closings will limit delivery hours.

Capacity has not yet been affected. Still, spot rates have started to climb in anticipation of the demand to come. Forwarders are expecting a surge of Chinese imports to follow the recovery of the Chinese economy.

The Federal Motor Carrier Safety Administration (FMCSA) issued an hours of service (HOS) emergency relief declaration which allows them to exceed the 11-hour daily driving limit and 14-hour daily work limit. This only applies to trucks carrying emergency goods in the following categories:

1. Medical supplies and equipment related to the testing, diagnosis and treatment of COVID-19
2. Supplies and equipment necessary for community safety, sanitation, and prevention of community transmission of COVID-19 such as masks, gloves, hand sanitizer, soap and disinfectants
3. Food for emergency restocking of stores
4. Equipment, supplies and persons necessary to establish and manage temporary housing, quarantine, and isolation facilities related to COVID-19
5. Persons designated by Federal, State or local authorities for medical, isolation, or quarantine purposes
6. Persons necessary to provide other medical or emergency services, the supply of which may be affected by the COVID-19 response
7. Analyze Enforcement Resources

FAA and EC Acts to Help Airlines Affected by Coronavirus Cancellations

As COVID-19 continues to impact international markets and travel, governments are taking action to relieve aspects of the disruptive impact on airlines. One such measure has been to temporarily waive minimum slot-use requirements at airports in both the US and Europe.

As demand for passenger flights continues to fall, especially following the [recent travel ban implemented by the US on certain European countries](#), airlines have begun to cancel flights. Generally, airlines are allotted slots at congested airports, and in order to maintain their rights to the assigned slots, they must maintain at least 80% utilization.

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These slot requirements, often referred to as “use it or lose it” slot regulations, have had an outsized impact on operations with respect to freighters. But with the recent impact of COVID-19 on passenger flight operations, both the Federal Aviation Administration (FAA) in the US and European Commission (EC) have taken steps to waive the 80% use requirements at major airports through May 31, 2020 – and any decision to extend the waiver period would be announced to the airlines as soon as possible.

In the US, the waiver applies to John F. Kennedy International Airport (JFK), New York LaGuardia Airport (LGA), and Ronald Reagan Washington National Airport (DCA) – and a formal schedule review and approval process to Chicago O’Hare International Airport (ORD), Newark Liberty International Airport (EWR), Los Angeles International Airport (LAX), and San Francisco International Airport (SFO). Additionally, the FAA has confirmed they will give credit to airlines for flights cancelled due to COVID-19 during the time of the waiver’s implementation. It is likely that the waiver will be extended through the summer, and even the 2020 season – as requested by the International Air Transport Association (IATA).

Furthermore, following the announcement of the US travel ban on certain European countries, the Airlines For Europe (AFE) has also called for “confirmation and immediate implementation of the 80/20 airport slots waiver through the end of the summer season until October, 25 2020” with respect to several major airports in Europe. The AFE has also pressed for the waiver or deferment of any new aviation taxes on airlines, in an effort to reduce the economic impact of the COVID-19 crisis on the airline industry. There are also stipulations in both the US and European waivers that the 80/20 requirements would be temporarily lifted for foreign airlines from either the US or Europe.

Don’t hesitate to contact our [airfreight specialists](#) with any and all questions related to capacity and rates.

What Is Force Majeure?

No, this is not an answer to Alex Trebek on Jeopardy...

Literally, it means “superior force,” but in transportation it is a bill of lading or contract clause that limits liability. In essence, it stipulates that contract conditions are no longer valid when the following extraordinary events occur: war, strike, riot, crime, plague, act of God (hurricane, flood earthquake, volcanic eruption). Typically, a force majeure clause does not excuse non-performance in perpetuity; it only excuses non-performance for the duration of the extraordinary event.

Last week, DHL Global Forwarding (the world’s largest forwarder), invoked force majeure for all of their customer contracts. The supply chain impacts of COVID-19 have been all but impossible to predict, and the supply of air cargo capacity is down as much as 60% worldwide. Industry pundits have predicted that many, if not most air and ocean carriers and forwarders will be forced to invoke force majeure.

Here is a recent example of a likely force majeure:

We recently had a [dramatic scare when the Port of Houston](#) closed for about 24 hours after a confirmed virus case. If steamship lines had been forced to discharge Houston cargo in Mobile or Miami, the cost of rail and trucking to destination would almost certainly have been borne by importers due to force majeure protection on carrier and forwarder bills of lading.

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SHAPIRO NEWS:

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 back weekly to ensure that you don't miss key industry insights that are constantly evolving!

[March 20th Weekly Update](#)

[March 26th Weekly Update](#)



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 **Shapiro's IT Department**.

IT has been in overdrive mode with the almost overnight conversion to remote working for all. The department has ensured equipment availability, worked out software bugs, implemented a Plan B for those that need it, and provided technical training sessions. An incredible amount of work at a record pace. They've allowed all of us the ability to continue working while staying safe in our homes. Congratulations – and thank you – IT Team!

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

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