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TRADE NEWS

New Benefits for Participants in Importer Self-Assessment Program

The Importer Self-Assessment (ISA) program is a partnership between CBP and importers to maintain a high level of trade compliance. ISA is a voluntary program that allows importers maximum control of their own CBP compliance, and recognizes importers who are willing to assume responsibilities for self-assessment in exchange for less CBP oversight. When an importer is accepted into the ISA program, they become eligible for a variety of benefits. Only C-TPAT certified importers may sign up for ISA.

Customs has posted a notice announcing changes to the ISA program. In addition to the original benefits, such as the exemption from the Regulatory Audit Division's (RAD) audit pool established for Focused Assessments, CBP announces five new benefits. CBP explains these new benefits derived from discussions with the aerospace industry but are available to all ISA participants.

- U.S. goods returned, HTS heading 9801.00.10: Importers will be allowed to claim 9801.00.10 status, retaining appropriate documentation and presenting it to CBP "on request". There is no requirement to provide with each entry.
 - Absent special circumstances, for items claimed under 9801.00.10 having an entered value of \$25,000 or less, CBP will not request supporting documents such as Manufacturer's Affidavits, Customs Form 3311, Foreign Shipper's Declaration or Importer's Declaration.
 - The importer must maintain internal controls to research, determine eligibility, and properly declare imports of returned U.S. products under 9801.00.10.
- Duty-Free Goods, HTS headings 9801.00.10, 9802.00.60 and 9802.00.80: There will be uniform acceptance of the NAFTA certificate in lieu of the Manufacturer's Affidavit.
 - The importer must maintain internal controls requiring valid proof of origin for all articles claimed to be of U.S. origin. When used for this purpose, the NAFTA certificates must be signed by the "producer" of the article and indicate the country of origin as "US".
- Assist Tracking:
 - The importer has the ability to declare assists in lump sum on the first shipment, or a subsequent shipment under the same purchase contract with the foreign supplier.
 - The importer must maintain internal controls and have processes in place to identify, declare, and record all assists provided to foreign suppliers, regardless of the method of allocation. Controls must also assure that assists are not purposely declared against duty free entries to avoid payment of duty or not purposely loaded on entries subject to drawback.
- American Goods Returned (AGR), Tools of Trade, or Articles Returned to the U.S. after Repair or Alterations:

An alternative method for value declaration of the article(s) originally exported will be provided for headings 9801.00.10 covering American goods returned, tools of trade under heading 9801.00.85, or articles returned to the US after repairs / alterations under heading 9802.00.40 or 9802.00.50. The importer must maintain internal controls and have processes and documentation in place to substantiate that the standard values declared reflect, as closely as possible, the fair market value of those articles.

• Civil Aircraft Agreement

A uniform process will be established for submission of evidence demonstrating eligibility for the Civil Aircraft Agreement. Documentation will be submitted to CBP on request.

The importer must have internal controls and processes to obtain and maintain documentation supporting entry under the Civil Aircraft Agreement.

Sources:

- The November 16, 2005 posting for the new ISA benefits available at: http://www.cbp.gov/xp/cgov/import/regulatory audit program/importer self assessment/isa h andbook_cover.xml
- Additional benefits for ISA participants available at: http://www.cbp.gov/linkhandler/cgov/import/regulatory audit program/importer self assessment/isa benefits.ctt/isa benefits.doc
- The Internal Self-Assessment Program Handbook is available at: http://www.cbp.gov/linkhandler/cgov/import/regulatory_audit_program/importer_self_assessment/isahb.ctt/isahb.doc

Periodic Monthly Statement

The Periodic Monthly Statement (PMS) process is a feature of the Automated Commercial Environment (ACE), the new automated system for Customs and Border Protection (CBP) currently under development. Importers may deposit duties on the 15th business day of the month following the month in which the goods are either entered or released, whichever comes first. This means merchandise entered or released on the first to the last day of the month can be scheduled for duty payment on the following month's Periodic Monthly Statement. This eliminates the need to process duty payments on a transaction by transaction basis. Customs does not assess any interest charges for payments made via PMS.

Importers must have a continuous bond in order to have their duties paid via PMS. Payment is via ACH only. Samuel Shapiro & Company, Inc. can help set you up as either a portal or non-portal account. C-TPAT participants are automatically set up as non-portal accounts and you only need provide us a copy of your C-TPAT acceptance letter in order to sign up for PMS.

Customs Automated Commercial Environment (ACE) will continue to expand. Customs will continue to increase the use of periodic monthly statements and the deployment of e-Manifest for trucks. In just ten months, the number of active ACE importer accounts has doubled. Broker accounts have tripled. Carrier accounts have

increased by two-and-a-half times. This explosive growth is expected to continue in 2006. Additionally, the International Trade Data Systems (ITDS) within ACE will also continue to expand with over 20 participating governmental agencies integrating their business requirements into the next ACE releases.

For more information on signing up for PMS, please contact <u>compliance@shapiro.com</u>.

BIS

A final rule went into effect on December 1, 2005 removing the need for exporters to obtain an import certificate in order to get an export or re-export license when the purchaser is a foreign government or agency of Bulgaria, Czech Republic, Hungary, Poland, Romania, Slovakia, and India. These countries have demonstrated a commitment to export control programs. To review the notice in the Federal Register, please visit

http://a257.g.akamaitech.net/7/257/2422/01jan20051800/edocket.access.gpo.gov/2005/pdf/05-23533.pdf.

Slow Implementation for CAFTA

The implementation of the Central American Free Trade Agreement with Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and the Dominican Republic for January 1, 2006 may be delayed. All countries may not be ready with regulations that assure compliance with the six different sets of national laws so that CAFTA will be implemented properly. Additionally, U.S. Customs and Border Protection has not provided necessary regulations for CAFTA and it is not clear whether importers will be able to claim CAFTA preferences retroactively to January 1, 2006.

GreenLane Maritime Cargo Security Act

On November 15, 2005, Senators Patty Murray (D-WA) and Susan Collins (R-ME) introduced the GreenLane Maritime Cargo Security Act (S.2008). Some of the programs in this bill to strengthen supply chain security include establishing:

- A "GreenLane" comprised of supply chain participants who voluntarily meet the highest level of security. GreenLane participants would submit cargo data prior to shipment loading, make cargo available for screening prior to loading, and load at a Container Security Initiative (CSI) port on a vessel with an approved security plan.
- Minimum security standards for all cargo containers entering the U.S.
- An Office of Cargo Security Policy that would ensure accountability and coordination of cargo security policies between the Department of Homeland Security (DHS) and other agencies.

- Joint Operations Centers to ensure a coordinated, measured response in the event of an incident, as well as plans for resumption of trade and reestablishing the flow of cargo.
- ◆ C-TPAT as a program authorized by DHS (currently, C-TPAT is a voluntary program and is not governed by regulation). S.2008 states that C-TPAT participants would be revalidated at least once every three years, and failure to meet validation requirements would result in withheld benefits.
- CSI as a program authorized by DHS. CSI ports would have to undergo full assessments by DHS which would also identify assistance programs to facilitate anti-terrorism measures at CSI and non-CSI ports.
- A single, uniform data system for electronic collection, dissemination, and sharing of import and export information.

The full text of the bill is available at http://thomas.loc.gov/ by searching S.2008.

CBP Commissioner Robert Bonner Retires

Customs and Border Protection (CBP) Commissioner Robert Bonner retired from federal service on Thanksgiving Day and will be resuming private law practice in California. Bonner led Customs through its most tumultuous years in history including the 2001 terrorist attacks (Bonner was sworn in only days after 9/11) and the massive restructuring of 22 government agencies into the Department of Homeland Security. Seemingly overnight, the mission of the U.S. Customs Service went from protecting the revenue of the United States to protecting our nation's borders. Under Bonner's tenure, Customs introduced multiple programs to help facilitate the flow of legitimate cargo while working to prevent terrorists and terrorist weapons from entering the United States. Most notably, Bonner was instrumental in developing the Customs-Trade Partnership Against Terrorism (C-TPAT) as well as the Container Security Initiative (CSI) and the 24 hour rule.

Deborah Spero has been appointed the Acting Commissioner for CBP. Ms. Spero has had a long career with Customs, most recently serving as Deputy Commissioner where she was responsible for providing leadership and executive-level direction for CBP's daily operations.

USTR Press Release on Interim Wine Agreement between the U.S. and EU

The Office of the United States Trade Representative (USTR) issued a statement on November 23, 2005 announcing that the United States and the European Community signed an interim agreement related to wine trade between the US and EC. The agreement is the precursor to the broader Wine Agreement, announced by USTR on September 15, 2005 and ensures that U.S. wine exports to the EU will not be disrupted pending the signing and entry into force of the Wine Agreement. The USTR explains that EC procedures to consider the signing of the Wine Agreement are currently underway and a final decision is expected by the end of the year.

Sources:

USTR Press Release on US and EC Interim Wine Agreement dated November 23, 2005 available at: http://www.ustr.gov/Document Library/Press Releases/2005/November/Statement from USTR Spokes woman Neena Mooriani on Interim Wine Agreement between the US European Community.html

Summary of the US and EC Wine Agreement, Press Release dated September 15, 2005 available at: http://www.ustr.gov/Document_Library/Press Releases/2005/September/United States European Community Reach Agreement on Trade in Wine.html

U.S. and Peru Conclude FTA

On December 7, 2005, the United States and Peru announced that they have concluded their work on a bilateral free trade agreement. This comprehensive trade agreement will eliminate tariffs and other barriers to goods and services and expand trade between the United States and Peru. The conclusion of the negotiations with Peru was announced by U.S. Trade Representative Rob Portman and Alfredo Ferrero Diez Canseco, Peru's Minister of Foreign Trade and Tourism in Washington, DC. The U.S. will continue to negotiate with Colombia and Ecuador in an effort to broaden the trade agreement.

In May 2004, the U.S. initiated free trade agreement negotiations with three Andean nations – Peru, Colombia, and Ecuador. The negotiations with Colombia and Ecuador will resume early next year. Bolivia has participated as an observer and could become part of the agreement at a later stage. The three Andean countries collectively represent a market of over \$8 billion for U.S. exports, and are home to close of \$8 billion in U.S. foreign direct investment. In 2004, total two way goods trade with Peru alone was \$5.8 billion. U.S. goods exports to Peru in 2004 were \$2.1 billion. The stock of foreign direct investment (FDI) in Peru in 2004 was \$3.9 billion.

"An agreement with Peru is a key building block in our strategy to advance free trade within our hemisphere, which we hope to later bring in the other Andean countries including Colombia and Ecuador," noted U.S. Trade Representative Rob Portman. "In addition to eliminating tariffs, Peru will remove barriers to trade in services, provide a secure, predictable legal framework for U.S. investors operating in Peru, provide for effective enforcement of labor and environmental laws, protect intellectual property, and provide an effective system to settle disputes."

The U.S. is aggressively working to open markets globally, regionally, and bilaterally, and to expand American opportunities in overseas markets. The Bush administration has completed FTA's with thirteen countries – Chile, Singapore, Australia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, Morocco, Bahrain, Oman, and now Peru. Negotiations are under way with ten more countries: Colombia, Ecuador, United Arab Emirates, Panama, Thailand, and the five nations of the Southern African Customs Union (SACU). New and pending FTA partners, taken together, would constitute America's third largest export market and the sixth largest economy in the world.

Source: "United States and Peru Conclude Free Trade Agreement" at http://www.ustr.gov/assets/Document Library/Press Releases/2005/December/asset upload file744 8 518.pdf appearing on the *Office of the United States Representative*'s website on December 7, 2005.

High Security Seals Required for India

Effective immediately, all containers arriving into India will require a one time bottle seal or bolt seal with a serial number. This type of seal, ISO/PAS 17712 compliant, is recommended by Customs and Border Protection for its C-TPAT participants. Some steamship lines will not accept containers for loading without this type of seal.

Indian Customs will refuse to load or discharge containers without an affixed bolt or bottle seal. In addition, Indian Customs will require the seal number to be documented on the manifest. Containers arriving without the prescribed seal may be denied entry or subject to additional fees or fines. For more information, please refer to the Government of India, Central Board of Excise and Customs website Customs Manual at: < http://www.cbec.gov.in/cae/customs/cs-manual/manual_idx.htm > http://www.cbec.gov.in/cae/customs/cs-manual/manual_idx.htm

C-TPAT's Latest Quantitative Data

The international trade community takes an active role in securing its own supply chain when members agree to participate in the Customs – Trade Partnership Against Terrorism (C-TPAT) program. C-TPAT has made substantial improvements in the last year; it looks like C-TPAT is here to stay.

As of January 2005

Approximately 8500 applicants Approximately 4600 certified partners Paper submissions General guidelines

8% Validations completed 21% Validations in progress 38 Supply Chain Security Specialists

Standard Benefits

As of December 2005

Approximately 10,000 applicants
Approximately 5,600 certified
partners
Electronic submissions
Specific minimum security
criteria
23% Validations completed
45% Validations in progress
88 Supply Chain Security
Specialists

Tiered Benefits

C-TPAT Tiered Benefits Include:

- Tier 1 includes certified importers; their security profile has been accepted with positive vetting.
- Tier 2 includes validated importers that meet minimum security criteria.
- Tier 3 includes validated importers that exceed minimum security criteria.

• These Tier 3 companies have supply chain security as part of their corporate governance structure and adopt best practices.

Non-intrusive inspection technology will continue to be utilized with greater frequency. Customs now uses radiation technology in addition to dogs to evaluate cargo without actually opening the container. Anomalies and cargo with unresolved radiation isotopes are then physically inspected.

For information on how to join C-TPAT, please contact us at consulting@shapiro.com.

Source: "Global Trade Law Newsletter", dated December 2005. COAC Meeting, December 2005.

C-TPAT Supply Chain Security Training

Attention Certified C-TPAT Partners! U.S. Customs and Border Protection recently announced that the 2006 Supply Chain Security Training for C-TPAT certified partners will be held March 1st - 3rd in Costa Mesa, California. Registration begins on January 5th for C-TPAT certified partners and there are a limited number of spaces. The training is free of charge for C-TPAT partners. Please continue to monitor the C-TPAT website for further details. www.cbp.gov.

U.S. Customs and Border Protection also announced a series of C-TPAT Enrollment Seminars in 2006 for the Mexican and Canadian Highway Carrier and Manufacturing sectors of C-TPAT. The first seminar is will take place in San Diego, California from January 31- February 2, 2006. Please continue to monitor the CBP, C-TPAT Web Page for further details along with the dates and locations of these seminars.

Not a C-TPAT member? Contact us for more information at consulting@shapiro.com.

COMPLIANCE CORNER

Reminder for Timely Filing of Antidumping Duty Reimbursement Certificates

The document entitled *Guidance for Certificates of Reimbursement*, issued by U.S. Customs and Border Protection (CBP), states that regulations require that the importer file a statement advising whether the importer has entered into an agreement or otherwise has received reimbursement of antidumping duties (ADD), prior to liquidation and the assessment of antidumping duties.

Customs regulations governing the deadline for filing the AD reimbursement certificate have changed over the years. The following guidelines apply:

• Entries filed on/after April 27, 1989 - The importer must file the reimbursement certificate prior to liquidation.

- Entries filed from February 5, 1980 to April 26, 1989 The importer was required to file the reimbursement certificate within 30 days after the earlier of 1) publication of the order or any administrative review thereof or 2) importation of the merchandise in a district in which not previously imported.
- Entries filed prior to February 5, 1980 The importer was required to file the reimbursement certificate before Customs proceeded with the appraisement of the merchandise.

Importers are notified in Federal Register notices of the responsibilities for filing a certificate of reimbursement of AD duties prior to liquidation. If the importer fails to provide a statement of reimbursement prior to liquidation, CBP will presume reimbursement of AD duties occurred, and double the AD duties upon liquidation. Customs brokers may not complete a statement of reimbursement on behalf of importers. For corporations, a corporate officer must sign the statement; for partnerships, it must be signed by a general partner; for sole proprietorships and individuals, the principal must sign.

Samuel Shapiro & Company, Inc. continues to collect reimbursement statements for countervailing duty (CVD) from the importer as well given that regulation (19 CFR 351.402(f)) provides for this.

For additional information regarding details of the policy please contact Shapiro's Compliance Department at compliance@shapiro.com.

Source: "CBP Guidance for Certificate of Reimbursement", dated November 18, 2005 is available at http://www.cbp.gov/linkhandler/cgov/import/add-cvd/program-guidelines/guidance-for-cert.ctt/guidance-for-cert.doc

New Informed Compliance Publication for Machine Tools

Customs and Border Protection (CBP) has published a new Informed Compliance Publication (ICP) titled "What Every Member of the Trade Community Should Know About: Machine Tools.

Informed Compliance Publications are designed to simplify tariff classification of specific merchandise or other aspects of importing, and are intended to help importers meet their obligation to exercise reasonable care with their Customs transactions.

This publication discusses the definition and provides examples of Composite and Multifunction Machines, Multipurpose Machines, Functional Units, and Machine Tools imported with accessories.

Addressed under this publication is one aspect that many importers grapple with regarding machine tools, or in fact many machines of chapter 84. At what point does an assembly or an aggregation of parts become an unfinished machine tool rather than parts? At what point does an unfinished machine have the essential character of

a complete machine? This publication will help you make this difficult determination by providing Customs Headquarter Rulings and interpretations.

The Chapter Notes, Headings, and Sub-Headings of Chapter 84 are broken down by CBP with background, definitions, and examples to clarify each section. CBP also provides examples of items often misclassified as parts or accessories of machine tools. This really is a must read for any importer with goods that may fit in any of these descriptions.

For a complete list of all Informed Compliance Publications available from CBP, please refer to the U. S. Customs and Border Protection website at: http://www.cbp.gov/xp/cgov/toolbox/legal/informed compliance pubs/.

TRANSPORTATION UPDATE

Top 10 U.S. International Freight Gateways

John F. Kennedy (JFK) International Airport in New York tops the list as the number one international freight gateway by value in 2004. JFK now displaces the Port of Los Angeles, which was the top gateway in 2003, according to the U.S. Department of Transportation's Bureau of Transportation Statistics (BTS). JFK handled \$52.7 billion in export trade and \$72.6 billion in imports, totaling \$125.3 billion in merchandise handled by the airport in 2004 (see table provided below for the top 10 gateways).

The top 10 U.S. freight gateways serve as national and multi-state regional trade gateways, in addition to serving local markets. The top freight gateways handle freight originating or terminating far outside their local markets. For example, 70 percent of the value of shipments passing through Detroit, the busiest U.S. land port, originate or terminate outside Michigan. At Laredo, TX, the busiest U.S.-Mexico port, 75 percent of shipments by value start or end outside the state.

A list of the top 50 international freight gateways is available on the BTS website at http://www.bts.gov/publications/national transportation statistics/2005/html/table_01_47.html. It can be found as an update to Table 1-47 of National Transportation Statistics.

Please refer to the U.S. Department of Transportation, Office of Public Affairs release number BTS 54-05, dated November 28, 2005 for the complete article and links to additional information on international freight and gateways http://www.dot.gov/affairs/bts5405.htm.

Top 10 U.S. International Freight Gateways, Ranked By Value of Shipments: 2004

			(Billions of U.S. dollars)		
200 4 Ran k	200 3 Ran k	Gateway name	Total Trade	Export s	Import s
1	2	John F. Kennedy International Airport, NY (air)	125.3	52.7	72.6
2	1	Los Angeles, CA (water)	121.4	16.4	105.1
3	5	Long Beach, CA (water)	121.3	18.6	102.8
4	3	Detroit, MI (land)	113.8	58.2	55.6
5	4	New York and New Jersey, NY/NJ (water)	113.5	23.1	90.4
6	6	Laredo, TX (land)	89.5	38.4	51.1
7	7	Los Angeles International Airport, CA (air)	68.7	33.9	34.8
8	9	Buffalo-Niagara Falls, NY (land)	68.3	31.7	36.6
9	11	Houston, TX (water)	66.4	29.2	37.2
10	8	Port Huron, MI (land)	65.9	23.6	42.3
		Top 10 Gateways	954.2	325.8	628.4
		Top 10, % of total	41.7	39.9	42.8
		Total, all gateways	2,286. 2	816.5	1,469. 7

Source: U.S. Department of Transportation, Research and Innovative Technology Bureau of Transportation Statistics, based on data from multiple sources.

SAMUEL SHAPIRO & COMPANY, INC. NEWS

News from Our Baltimore Office

Home Paramount Pest Control Co. has handled all fumigation services in the Baltimore ports for many years. Now Western Fumigation will provide allport fumigation services. Sally Gonzales, our Baltimore import manager, had a chance to meet with the Western's Operations Manager during a recent local Brokers Association meeting. They have been in business since 1928 and are experts in this field.

Baltimore International Warehousing & Transportation, Inc. has placed a bid with Customs to be an unmanned centralized examination station. If they are awarded the contract, it will give the importing community more flexibility for Customs examinations and will result in both a cost and time savings for our customers.

0.00% AES Error Messages for 3rd Quarter 2005

Samuel Shapiro & Company, Inc. received praise from Gerald Horner, Chief, Automated Export System (AES) Branch, for receiving no errors for all AES transmissions during the third quarter of 2005. The report, issued by the U.S. Census Bureau, monitors and reviews AES data for quality, timeliness and coverage. The report covers all AES transmissions made by Samuel Shapiro& Company's Export departments, for air and ocean shipments combined.

Achieving a 0.00% rating is an excellent achievement for both Samuel Shapiro & Company, Inc. and our clients.