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"SHAP" TALK
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In this issue:

TRADE NEWS

New Bill Would Require All US-Bound Containers to be Scanned

The Sail Only if Scanned (SOS) Act (H.R. 4899) introduced by Congress on March 8, 2006, would mandate that every cargo container bound for the United States be scanned for nuclear weapons and bomb-making materials. Currently, fewer than five percent of the eleven million shipping containers that enter this country every year are scanned.

Controversy surrounding the proposed sale of U.S. port interests to a Dubai-owned company sparked renewed focus on port security. The SOS Act would require:

• all cargo containers to be scanned using the best-available technology, including scanning for radiation and density, before they are loaded onto a ship destined for the U.S.;

• such scans to be reviewed by U.S. security personnel before the container is loaded;

• containers to be sealed with a device that indicates if the container has been tampered with in transit and that would notify U.S. officials of a breach before the container enters the Exclusive Economic Zone of the United States.

SAFE Port Act Introduced

The Security and Accountability for Every (SAFE) Port Act (H.R. 4954) was introduced on March 14, 2006 by U.S. House Homeland Security Subcommittee Chairman Dan Lungren (R-CA). The purpose of this bill is to improve maritime and cargo security through enhanced layered defenses. This legislation is a companion bill to the GreenLane Maritime Cargo Security Act (S.2008) which we discussed in the January edition of Shap Talk - http://www.shapiro.com/docs/ShapTalk45.pdf

The SAFE Port Act includes provisions to enhance security at our ports by deploying radiation portal monitors at all U.S. seaports to ensure 100 percent of containers are scanned for radiation; to harden U.S. ports against terrorist attacks and enhance capabilities to respond to attacks and resume operations; to require the Department of Homeland Security to conduct terrorist watch-list checks of all port employees with access to secure areas; to require protocols for resuming trade after a transportation security incident.

H.R. 4954 also seeks to prevent threats from reaching the U.S. by codifying the Container Security Initiative (CSI) and the Customs-Trade Partnership Against

Terrorism (C-TPAT). The SAFE Port Act strengthens the C-TPAT program, sets minimum standards for C-TPAT participation, divides program membership into tiered categories based on the level of each country's security cooperation, and establishes a top tier category for C-TPAT participants to receive additional benefits in exchange for greater security cooperation.

The third focus of the SAFE Port Act covers tracking and protecting containers en route to the U.S. by improving the Automated Targeting System (ATS), improving the International Trade Data System (ITDS), requiring DHS to establish standards for securing containers, and reviving Operation Safe Commerce. The purpose of the ATS is to identify high risk containers before they reach U.S. soil. ITDS is a function of ACE, the new operating system under development for Customs. ITDS is a single information technology platform designed to collect, integrate, and disseminate international trade and transportation data for multiple government agencies. Operation Safe Commerce is a program to fund business initiatives designed to enhance security for container cargo moving throughout the international transportation system.

Representative Lungren states, "The adoption of comprehensive port security legislation is urgent, eminent, and essential to protecting the American people and the vitality of the American economy." The SAFE Port Act is on a fast track and is expected to go to the House floor for a vote very shortly.

What's New and What's News from the Foreign Trade Division

The Foreign Trade Division (FTD) of the U.S. Department of Commerce issued a press release on April 12, 2006 titled "What's new and what's news from the Foreign Trade Division."

The FTD collects U.S. International trade statistics and provides a range of informational services. Many of these statistics by region, product, and country are free and available on the FTD website. Customs reports can also be obtained from the Foreign Trade Division.

The FTD reports, "The Nation's international deficit in goods and services decreased to $65.7 billion in February from $68.6 billion (revised) in January, as imports decreased more than exports."

Some of the questions posed by the FTD in this press release include:

- How are commodities classified?
- What do seasonal adjustments do for you?
- What is the U.S./Canada data exchange and why should you care?

Some of the sections of interest covered by this release are:

- The basics from the "U.S. International Trade in Goods and Services - Highlights" - http://www.census.gov/indicator/www/ustrade.html

- More detailed data from the full "U.S. International Trade in Goods and Services Press Release - http://www.census.gov/foreign-trade/www/press.html

- Trade balances with specific countries (as far back as 1985 for most countries) - http://www.census.gov/foreign-trade/balance/index.html

- Product Trade Information. What do we trade with specific countries? General (1-digit SITC) - http://www.census.gov/foreigntrade/sitc1/index.html
  - More detailed (3-digit SITC)
  - http://tier2.census.gov/sitc/sitcpage.htm

Additional information on the collection and publication of Trade Statistics can be viewed at:
http://www.census.gov/foreign-trade/reference/guides/tradestatsinfo.html

If you have additional questions or require additional information, please contact the Trade Data office at 301-763-2242 or e-mail at FTDREQINFO@CENSUS.GOV

DR-CAFTA Effective April 1, 2006 for Honduras & Nicaragua

The U.S.-Dominican Republic-Central America Free Trade Agreement Implementation Act ("the Act"; Public Law 109-53; 119 Stat. 462; 19 U.S.C. 4001 note) was signed into law on August 2, 2005. The Act allowed for the Agreement to take effect upon determination by the President for those countries that have taken measures to comply with the requirements of the Agreement. Currently, the Agreement is in effect for goods of El Salvador entered, or withdrawn from warehouse for consumption, on or after March 1, 2006.

Presidential Proclamation posted on the White House website on March 31, 2006, implements the U.S.-Dominican Republic-Central America Free Trade Agreement (CAFTA-DR) for goods of Nicaragua and Honduras entered, or withdrawn from warehouse for consumption, on or after April 1, 2006.

- Presidential Proclamation dated March 31, 2006 implementing US-DR-CAFTA for Goods of Nicaragua and Honduras
  http://www.whitehouse.gov/news/releases/2006/03/20060331-6.html

- USITC Publication 3845 dated March 2006.
  http://www.usitc.gov/tata/hts/other/rel_doc/annex/PUB3845.pdf

U.S. Customs and Border Protection issued a memorandum on April 13, 2006 which contains instructions for the retroactive DR-CAFTA benefits for Nicaragua and Honduras Textile and Apparel Goods.

- Requests must be filed for liquidation or re-liquidation by December 31, 2006.
  http://www.cbp.gov/linkhandler/cgov/import/textiles_and_quotas/tbts/tbt2006/tbt_06_009 ctt/tbt_06_009.doc

- Federal Register/Vol. 71, No. 67/ Friday April 7, 2006 /Notices, page 17931 to 17932
  http://a257.g.akamaitech.net/7/257/2422/01jan20061800/edocket.access.gpo.gov/2006/pdf/E6-5074.pdf

- Previous memorandum containing instructions for retroactive DR—CAFTA benefits for El Salvador Textile and Apparel Goods:
  http://www.cbp.gov/linkhandler/cgov/import/textiles_and_quotas/tbts/tbt2006/tbt_06_005.ctt/tbt_06_005.doc

Sources: www.whitehouse.gov/news/releases ; U.S. Customs and Border Protection; United States International Trade Commission Publication 3845; Federal Register.

Anti-Dumping and Countervailing Duty Orders List Updated by ITC

The International Trade Commission (ITC) posted to its Web site an updated list of current antidumping (AD) and countervailing (CV) duty orders in place as of February 16, 2006. The ITC list includes the following information for each of the AD and CV duty orders: AD or CV duty order date, ITC case number, International Trade Administration (ITA) case number, product description, and country. On the ITC Web site the same list can be sorted by country, by date of the AD or CV duty order, by product group, and by five-year Sunset Review Sequence Group.

Importers whose product falls under AD or CV duty orders are urged to check this list for current case information. Another good source of current AD or CV duty orders case information is The Federal Register.

- ITC list available at: http://www.usitc.gov/trade_remedy/731_ad_701_cvd/investigations/antidump_countervailing/index.htm

- The Federal Register home page available at: http://www.gpoaccess.gov/fr/index.html

Export Enforcement Penalties Continue to Increase

The Bureau of Industry and Security (BIS) under the U.S. Department of Commerce issued its annual report for 2005 and the penalties assessed to exporters are staggering!

- $7.7 Million in criminal fines
- $6.7 Million in administrative penalties
- $57,000 for anti-boycott violations

BIS plays a critical role in supporting efforts to deny our enemies the means to acquire weapons of mass destruction. BIS balances America's security needs and American business's perspectives to its key priorities of:

- Maintaining and strengthening an adaptable and effective U.S. export control and treaty compliance system;
- Collaborating with other countries to create a more effective global export control and treaty compliance system;
- Eliminating illicit export activity outside the global export control and treaty compliance system;
- Ensuring continued U.S. technology leadership in industries that are essential to national security.

It is clear from this report that penalties issued to exporters will continue to rise each year. It is crucial for U.S. exporters to fully understand what they are shipping, and how they are shipping their product. Exporters must be aware of items that are controlled, and countries and entities that are prohibited from receiving U.S. exports. If you are not aware of what items are controlled for export, please feel free to contact compliance@shapiro.com for a guide to exporting.

This link is provided to view the *BIS Annual report for Fiscal Year 2005* issued on April 4, 2006 in its entirety:
http://www.bis.doc.gov/News/2006/annualReport/BIS_annualReportComplete05.pdf

2005 Trade Statistics

- The 2005 trade deficit was a record $725.8 billion, an increase of 17.5% over 2004.
- China is our largest trade deficit partner. Imports exceeded exports by $201.6 billion, up 24.5% over the record $161.9 billion deficit set in 2004.
- Other trade deficit partners include Canada, Japan, Mexico and Germany.
- Countries with which the U.S. enjoys a trade surplus include Singapore, Australia, United Arab Emirates, Egypt, and Panama.
- Our largest trading partner was Canada with $287.5 billion in imported merchandise representing 17% of U.S. total imports. On the export side, we sent $183 billion worth of goods to Canada, nearly 23% of our total exports.
- China comes in number two for imports with $242.6 billion in imported goods, close to 15% of total U.S. imports.
- Mexico is number two for exports with nearly $102 billion in exported goods representing almost 13% of total U.S. exports.
- Total U.S. imports increased by 12.9% to an all time high of $2 trillion.
- Total U.S. exports increased by 10.4% to an all time high of $1.27 trillion.
- Steel imports were down by 10.3% over 2004, while steel exports were up by 18.4%.
- Imports of foreign oil increased to $251.6 billion, 39.4% over 2004, largely due to Hurricane Katrina.
- The average duty rate for all imports in 2005 was 1.4%. In 1996, the average duty rate for all imports was 2.28%.

United States Welcomes Chinese Action on Key Trade Issues

On April 11, 2006, U.S. Secretary of Commerce Carlos Gutierrez, U.S. Secretary of Agriculture Mike Johanns, and U.S. Trade Ambassador Rob Portman met with Chinese Vice Premier Wu Yi for the 17th annual senior-level meeting of the Joint Commission on Commerce and Trade (JCCT). Commenced in 1983, the JCCT is an ongoing dialogue to address issues affecting U.S.-China trade and investment. The previous JCCT was held in Beijing on July 11, 2005.

At April 11th meeting, China committed to addressing a number of U.S. trade concerns in three areas: enhancing access of U.S. companies and farmers and ranchers to the Chinese market; improving protection of intellectual property rights in China; and moving toward a transparent and market-oriented system of government procurement in China.

The Chinese agreed to the following: reopening its market to U.S. beef exports; launching negotiations to join the WTO government procurement agreement;

requiring Chinese computers to use legal software; closing optical disk plants that produce pirated CDs and DVDs, and stepped up enforcement of IPR; requiring all trade-related measures to be published in a single official journal; eliminating barriers to trade in medical devices; and the launching of a dialogue on the steel industry. These actions have resulted from extensive discussions between U.S. and Chinese officials over the past six months.

"We've made clear progress in some areas including intellectual property rights and market access. We still have work to do, but today's meeting was a positive step forward on a number of key issues," said Secretary Gutierrez.

"Our message to China has been consistent and clear. American exporters, workers, farmers and service providers deserve the same access to Chinese markets as China has to our markets," said Ambassador Portman. "We welcome the progress made today and will continue to press for additional steps to promote greater equity, durability and balance in the U.S. China trade relationship."

The U.S. and Chinese officials also agreed to establish a U.S.-China High Technology and Strategic Trade Working Group under the JCCT to review export control cooperation and facilitate high technology trade. Among the Group's first activities will be planning a bilateral export control seminar in China.

Source: "United States Welcomes Chinese Action on Key Trade Issues" at http://www.ustr.gov/Document_Library/Press_Releases/2006/April/United_States_Welcomes_Chinese_Action_on_Key_Trade_Issues.html appearing on the *Office of the United States Trade Representative's* website on April 11, 2006.

SWPM Marking Violations in Savannah, Georgia

At the March IFFCBA (Independent Freight Forwarders and Customs Broker Association) monthly meeting in Savannah, Customs & Border Protection (CBP) Agriculture Specialist Angie Amerson spoke to the group regarding the Solid Wood Packing Material enforcement phase now in effect.

Inspector Amerson reviewed the history of the regulation and the countries participating in the effort for uniformed wood packing material reforms. The policy in the Savannah port is to inspect the containers and the packing material and look for the required marking on the packing. When asked if the marking needed to be on all four sides, Inspector Amerson stated one side was sufficient as long as the marking was the approved marking, permanent and conspicuous. The final regulation states the marking should "preferably [be] on at least two opposite sides of the article." Certainly, the marking needs to be visible to Agriculture inspectors upon opening the container.

We also asked about the policy regarding separating the imported product from the non-compliant wood packing material. Inspector Amerson stated the Port Director has the final authority to approve or deny the request, and many factors, including the availability of personnel, go into that decision. In Savannah, CBP has allowed the majority of containers inspected and found to have non-compliant packing material the option of separating the WPM for export; however, she added this may decline as the number of non-compliant materials are discovered and the personnel available to supervise the separation becomes too few.

Port of Cortes, Honduras becomes 44th CSI Port

On March 25, 2006, CBP announced the Port of Cortes as the 44th operational CSI port allowing cargo to be screened for terrorist and terrorist weapons. For the first time, U.S. Customs and Border Protection's (CBP) Container Security Initiative (CSI), an innovative program that works cooperatively with foreign governments to target and pre-screen maritime containerized cargo before it heads to the United States, is expanding to Central America.

A joint declaration of principles was signed on December 15, 2005 and, in addition to bringing the CSI program to Honduras, also brings the U.S. Department of Energy's National Nuclear Security Administration's (NNSA) MegaPorts Initiative. The Department of Energy will install large-scale and sophisticated radiological detection equipment to identify nuclear material as part of this initiative.

"Through CSI, the Port of Cortes now has the chance to ship more containers to the United States which will directly benefit the Republic of Honduras because foreign investors will see the country as an easy and secure way to send their merchandise to the United States," said Charles A. Ford, U.S. Ambassador to the Republic of Honduras. "This will open more job and commerce opportunities, especially once the Central America Free Trade Act (CAFTA) enters into effect."

CBP will deploy a multidisciplinary team of officers to be stationed at the Port of Cortes to target maritime containers destined for the United States. Honduran Customs officials, working with CBP officers, will be responsible for screening any containers identified as a potential terrorist risk.

With the Port of Cortes, there are now 44 operational CSI ports in Europe, Asia, Africa, the Middle East, and North, South, and Central America. Approximately 75 percent of cargo containers headed to the U.S. originate in or are transshipped from CSI ports. CBP's goal is to have 50 operational CSI ports by the end of 2006. At that time, 82 percent of all cargo imported into the United States will be subjected to pre-screening.

Source: "Port of Cortes, Honduras becomes 44th Container Security Initiative Port" at
http://www.customs.gov/xp/cgov/newsroom/press_releases/032006/03252006.xml appearing on the *Bureau of Customs and Border Protection*'s website on March 25, 2006.

COMPLIANCE CORNER

Internet Purchases: A Checklist for Importing

It is important to keep the following questions in mind before purchasing over the Internet from a foreign source. The answers will have far-reaching CBP implications that could influence your decision to buy.

- Can the goods be legally imported? Are there restrictions on, or special forms required, for your purchase's importation?
- Are you buying the item(s) for your personal use or for commercial purposes?
- Will you be responsible for shipping costs? If so, you should discuss with the seller how your purchase will be shipped. The choices are freight, courier service, or international postal service. Caution is recommended as transportation and handling costs could far outweigh the cost of a purchase. Sometimes, the seemingly cheaper methods can be more expensive in the long run because they are more susceptible to theft, mis-deliveries and logistical problems.
- You should discuss with the seller what the exact delivery arrangements will be. If the seller does not make arrangements for postal or door-to-door delivery, you will either need to hire a customs broker to clear your goods and forward them on to you, or go the port of entry and clear them yourself.
- Can you trust the seller to provide accurate information about the shipped item in the Customs section of the shipping documents? Giving misleading or inaccurate information about the nature of the item and its value is illegal. And it is the importer - **YOU** - who could face legal action and fines for this violation!

Compliance Q & A

Do I need a Customs Broker in order to clear my cargo through Customs?
There is no legal requirement for you to hire a Customs broker to clear your goods. However, many importers opt to do so for the convenience. Customs brokers are

licensed by U.S. Customs and Border Protection to conduct CBP business on behalf of importers. They take the burden of filling out paperwork and obtaining a CBP bond off of the importer's hands. Some importations can be particularly complex - such as the importation of textile items for resale - because of quota or other special requirements governing the importation of the product. The importer is always ultimately responsible for knowing CBP requirements and for ensuring their importation complies with all federal rules and regulations, but using a Customs broker can save you from making costly mistakes.

What is a bill of lading?
A bill of lading is a commercially available document issued by a carrier to a shipper, signed by the captain, agent, or owner of a vessel, furnishing written evidence regarding receipt of the goods, the conditions on which transportation is made (contract of carriage), and the engagement to deliver goods at the prescribed port of destination to the lawful holder of the bill of lading. CBP regulates cargo declaration (CBP Form 1302) data in accordance with the Customs Regulations at 19 CFR, Part 4.

What is the Merchandise Processing Fee?

You see this fee on nearly every Customs entry. It can be found at the bottom of the CF7501 Entry Summary with a code 499, and is totaled with other user fees in block 39. The Merchandise Processing Fee (MPF) was created in 1985 as part of the Consolidated Omnibus Reconciliation Act (COBRA) (Pub. L. 99-272; codified at 19 U.S.C. 58c). This legislation authorized Customs to collect user fees for passenger and conveyance services. The MPF was designed to fund the commercial operations of U.S. Customs. In fiscal year 2004, Customs collected $1.46 billion in user fees. The American Jobs Creation Act (H.R. 4520), signed into law by President Bush on October 22, 2004, contains a provision to extend collection of the MPF until September 30, 2014.

The MPF is an ad valorem fee currently assessed at .21% of the value of cargo, and is collected at the time of entry with Customs duties. The fee went into effect December 1, 1986 (and at the time was rather controversial). The minimum MPF for a formal entry is $25.00, the maximum is $485.00; the MPF for an informal entry is $2.00. The importer of record is responsible for paying the MPF. The Customs Regulations state the MPF is to be treated as duty, therefore it is recoverable in a protest situation and is eligible for drawback under 1313(j)(1) or 1313(j)(2), provided all statutory requirements are met.

With so many new Free Trade Agreements enacted recently, it can be confusing whether the MPF is to be assessed or not. For your convenience, we are listing various trade preference programs along with the MPF applicability.

Program	MPF Applicable?
Generalized System of Preferences (GSP)	Yes*
Least Developed Beneficiary Developing Countries (LDDC)	No
Caribbean Basin Economic Recovery Act (CBERA)	No
U.S.-Israel Free Trade Area	No
North American Free Trade Agreement (NAFTA)	No
U.S. Insular Possessions (U.S. Virgin Islands, Guam, American Samoa, Wake Island, Midway Islands, and Johnston Atoll. Also Northern Mariana Islands)	No
Andean Trade Preference Act (ATPA) and Andean Trade Promotion and Drug Eradication Act (ATPDEA)	Yes
African Growth and Opportunity Act (AGOA)	Yes*
Caribbean Basin Trade Partnership Act (CBTPA)	No
U.S.-Jordan Free Trade Area	Yes
U.S.-Singapore Free Trade Agreement	No
U.S.-Chile Free Trade Agreement	No
U.S.-Morocco Free Trade Agreement	Yes
U.S.-Australia Free Trade Agreement	No
Central America-US Free Trade Agreement (CAFTA)	No
Articles provided for in Chapter 98 HTSUS, except for the dutiable portion of 9802.0060 and 9802.00.80	No
	* Unless the country is already exempt as an LDDC

TRANSPORTATION UPDATE

May 2006

Far East
Bunker Surcharges from Far East ports to the USA will remain the same on May 1, 2006. Carriers have announced that they will update the bunker surcharge on a monthly basis rather than on a quarterly basis.

April 1, 2006 – June 30, 2006

- 20' container $410.00
- 40' container $545.00
- 40' HC container $615.00

- 45’ container $690.00

The Panama Canal Surcharge will rise from $165.00 per container to $192.00 per container on May 1, 2006.

May 1 is typically the date on the calendar where rates go up from Asia and the Indian Sub-Continent. Many contracts have not been signed yet. Rumor has it that Wal-Mart and Target Stores have only signed contracts for 2 months. Most industry insiders say that since rates will fall during the course of the year the largest importers will not sign a contract for a full year.

We still anticipate that once the dust settles there we will not be any increases May 1, 2006. Rates to the west coast will go down. Mini-landbridge (MLB) rates will vary from carrier to carrier depending on the rail contracts. Most of the railroads will be issuing major increases and steamship lines will have to decide whether to pass on the increases or absorb. The railroads are in a strong position and will try to raise rates wherever possible.

Samuel Shapiro & Company is in the midst of negotiating contracts that will be effective on May 1, 2006. Some carriers have extended contracts into May as BCO (Beneficial Cargo Owner’s) contracts are not settled yet. Carriers tend to sign BCO contracts first and then offer contracts to NVOCC’s. We expect to have our contracts in place by May 1, 2006.

Rates from India are expected to rise on May 1, 2006. As of this writing we don’t know any details, but all indications are that there isn’t sufficient capacity to meet demand and the carriers will be able to obtain some sort of increase. We should have more information for the June newsletter.

Northern Europe
Bunker fuel surcharges that were increased on October 16, 2005 from Northern Europe to United States will stay the same through June 15, 2006.

Current bunker surcharges are as follows:
- East Coast Ports - 20’ containers $ 423.00
- East Coast Ports - 40’, 40’ HC, and 45’ containers $ 846.00
- West Coast Ports - 20’ containers $ 635.00
- West Coast Ports - 40’, 40’ HC and 45’ containers $ 1270.00

Carriers will maintain their Currency Adjustment Factor at 6%.

Added capacity to the North Atlantic – U.S. east coast trade has caused rates to drop a bit. It's not a dramatic decrease, however the added supply has caused a reaction in the marketplace.

The Mediterranean

The bunker fuel surcharge that went up on November 1, 2005 will remain the same through the month of May.

Bunker surcharges will remain as follows to Atlantic and Gulf ports from all Mediterranean ports:

- 20' container $401.00
- 40', 40 HC container $802.00

Space is getting tighter on MSC vessels from the Mediterranean region, especially from Valencia, Spain. There is still some backlog in Valencia due to vessel changes by MSC. The situation should improve by the end of May.

Air News

Fuel surcharges are going back up worldwide. With the price of oil at over $70.00 per barrel, we can expect to see a surge in airline fuel surcharges worldwide.

Export Ocean News

As rates go down on imports from Asia, the ocean carriers are trying to raise rates on exports to the Far East. Some have been successful. Rates to Northern Europe from the USA east coast are feeling some pressure with the added capacity being introduced to the trade. Samuel Shapiro & Company has signed a new service contract with China Shipping to capitalize on lower rates that are on the market.

Domestic USA

Domestic fuel surcharges (FSC) are on the rise again. Lately we have seen FSC in the 24-28% range.