"SHAP" TALK

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TRADE NEWS

Changes to HTS Expected to be Delayed Until February 2007

The trade community will have at least 30 days to implement the 2007 U.S. Harmonized Tariff Schedules now that the recent tax and trade bill has been approved by Congress. In addition, Customs & Border Protection (CBP) has granted a 15 day grace period after the new HTS implementation.

The change to the HTSUS is the biggest of four revisions to the Harmonized System since it went into force in 1988. The WCO (World Customs Organization) periodically updates the system to take account of changes in technology and trading patterns. Over time obsolete items such as record albums are deleted and replaced by their modern counterparts, such as CDs and DVDs. As a general rule, headings are deleted when annual global trade in categories is less than $100 million over a number of years. Subheadings are removed when trade falls below $50 million. The same thresholds apply for creating new categories.

Under the current changes, aside from headings and sub-headings being eliminated and new categories being created, commodities are also shifted from one category to another to consolidate similar type products in one area. For example, printers, copying machines, facsimile machines and multifunction devices are being combined under one heading. TVs and monitors are also merged. The 2007 amendments were heavily influenced by environmental and social concerns, which led to subheadings for the separate identification of certain species of fish, bamboo products, pesticides, ozone-depleting substances and products containing asbestos. Monetary thresholds do not apply for goods having environmental or social concerns.

The changes are more significant this year than in previous revisions because many new HTS numbers are not simply one-to-one replacements of existing classifications. Many items are being broken down from one heading to multiple headings. Communication devices, for example, have been split into separate numerical categories for cell phones, personal digital assistants, fax machines and other subgroups. Although the tariff changes are designed to ensure substantial rate neutrality, in certain instances the duty rate for a product may change.

The ITC (U.S. International Trade Commission) is expected to post the 2007 HTSUS to its website on January 1, 2007 although this initial version will be based on the 2006 nomenclature. Approximately 2 weeks after the initial version is released, ITC will post a revised version of the 2007 HTSUS to incorporate the major revisions agreed to at the World Customs Organization. The major revisions would then become effective approximately February 1, 2007.

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CBP Introduces "10+2" Advance Trade Data Elements

Customs & Border Protection (CBP) has recently posted on its website a proposal for advance trade data elements, also referred to as security filing data. Since the events of 9/11, CBP has been working to "push out" our nation's borders through various security programs such as C-TPAT, the Container Security Initiative, and the 24 Hour Rule. The recently passed SAFE Port Act sets forth a requirement to enhance CBP's automated targeting system by requiring the transmission of additional data elements prior to cargo loading at the foreign port. These advance trade data elements have been given the moniker "10 + 2" which refers to ten data elements plus two reports used to routinely track containers.

They are:

1. manufacturer name and address
2. seller name and address
3. container stuffing location
4. consolidator name and address
5. buyer name and address
6. ship to name and address
7. importer of record number
8. consignee number
9. country of origin of the goods
10. commodity harmonized tariff schedule number (6 digits)

Plus:

1. vessel stow plan
2. container status messages

CBP emphasizes that the additional data elements requested will be used for security and enhanced targeting and are not intended for commercial or trade enforcement purposes. The ten data elements will be the responsibility of the importer as it is the party most likely to have direct knowledge of this information. The carrier will be responsible for the "plus two" portion of the security filing data.

The 10+2 security filing data is for ocean cargo only. Because the ten proposed data elements are so closely linked to entry data, Customs is suggesting both the security filing data and the entry data be submitted at the same time, 24 hours prior to vessel loading.

By requiring the 10+2 advance trade data elements, Customs hopes to improve risk targeting and provide greater transparency into the supply chain back to the point of stuffing. The 10+2 proposal is under review by CBP and the trade group COAC, the Departmental Advisory Committee on Commercial Operations of Customs and Border Protection. CBP plans to issue a Notice of Proposed Rulemaking in the Federal Register in the spring and phase in the new requirements by the end of summer/early

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fall 2007. The trade will have adequate opportunity to provide comments once the notice of proposed rulemaking is published.

The proposal is available at:
http://www.cbp.gov/linkhandler/cgov/import/carriers/adv_data_elements.ctt/adv_data_elements.doc

OFAC Posts Penalty Notices with Case Reports to Website

The Office of Foreign Assets Control (OFAC) posts on its website copies of its final agency Penalty Notices with the relevant case reports on a monthly basis. The most recent release of civil penalties information can be found on the OFAC website at: http://www.treas.gov/offices/enforcement/ofac/actions/index.shtml

These cases show the settlement amounts and the individuals or companies that have violated OFAC regulations. Information regarding the civil penalty process is discussed in OFAC regulations governing the various sanctions programs. Many of the cases involve sanctions regulations issued pursuant to the Trading with the Enemy Act, in 31 CFR Part 501.

To see all the monthly postings of penalty cases, please refer to OFAC's website at: http://www.treas.gov/offices/enforcement/ofac/actions/index.shtml.

Tougher Guidelines for Mitigating CBP Penalties

U.S. Customs and Border Protection (CBP) has issued new guidelines for mitigation of penalties for merchandise delivered from the port without CBP authorization or examination, or both. CBP explains the removal or delivery of merchandise from the place of unlading, the terminal or port, without authorization or examination places an unacceptable risk upon the security, health, or safety of the populace.

Under previous guidelines CBP allowed mitigation to an amount between $2,500 and $20,000, depending on aggravating or mitigating factors. Many of these penalties were mitigated to $2,500, regardless of whether the violations could have placed the security, health, or safety of the populace at risk.

For violations of 19 U.S.C. 1595a(b), delivery of merchandise without Customs authorization or examination, for violations of 19 U.S.C. 1448, delivery from the place of unlading without authorization, or 19 U.S.C. 1449, delivery without CBP examination, CBP provides the following new guidelines:

- First violation. If CBP considers a removal or delivery of merchandise to place the security, health, or safety of the public at risk, the assessed penalty may be mitigated upon payment of the lesser of: 1) 75% of the domestic value of the merchandise removed or delivered without authorization and/or examination, or 2) a flat sum between $10,000 and $25,000, as determined by CBP.

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- Second violation. If CBP considers a removal or delivery of merchandise to place the security, health, or safety of the public at risk, the assessed penalty may be mitigated upon payment of the lesser of: 1) 75% of the domestic value of the merchandise removed or delivered without authorization and/or examination, or 2) a flat sum between $25,001 and $50,000, as determined by CBP.

- Third and subsequent violations. If CBP considers a removal or delivery of merchandise to place the security, health, or safety of the public at risk, the assessed penalty may be mitigated upon payment of the lesser of: 1) 75% of the domestic value of the merchandise removed or delivered without authorization and/or examination, or 2) a flat sum between $50,001 and $75,000, as determined by CBP.

Separate penalties may be assessed against multiple parties, i.e., each party involved in the violation may be subject to a penalty.

Source: Customs Bulletin and Decisions. Vol 40, No. 49. November 29, 2006
http://cbp.gov/linkhandler/cgov/toolbox/legal/bulletins_decisions/bulletins_2006/vol40_11292006_no49/40genno49.ctt/40genno49.pdf

CBP Publishes Uncollected ADD/CVD Duties

Antidumping duty (ADD or AD) is assessed when a foreign manufacturer sells to the United States at less than a fair value and there is an injury or threat of injury to U.S. industry. The antidumping margin (or AD duty rate) is set to represent the difference between the fair market value of the merchandise and the exporter's sale price.

Countervailing duty (CVD) is assessed when a foreign country pays grants or subsidies to the manufacturer, producer, or exporter of goods in order to encourage exportation or to help the exporter compete in the U.S., and there is injury or threat of injury to U.S. industry.

According to the Government Accounting Office (GAO), Customs & Border Protection (CBP) has been unable to collect at least $480 million in ADD and CVD since 2003. For fiscal year 2006, which ended September 30, 2006, the uncollected ADD/CVD came to $146.4 million, an increase of 57% over fiscal year 2005, but lower than the $260.1 million uncollected in FY 2004.

The majority of the uncollected funds is for goods from China such as crawfish tail meat ($91 million), pure magnesium ($4.1 million), and honey ($2 million). Other noteworthy commodities and countries are corrosion-resistant carbon steel flat products from Canada ($18.7 million), frozen warmwater shrimp and prawns from India ($6.3 million) and from Thailand ($2.7 million), and ball bearings from Japan ($5.1 million) and from Germany ($3.4 million).

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CBP's recent revisions to its policies on continuous bonds for ADD/CVD merchandise increases the bond liabilities for importers in order to reduce the risk of uncollected ADD and CVD. New shipper bonding privileges have also recently been suspended which should reduce the uncollected duties by preventing new shippers from posting bonds to cover ADD/CVD duties and then disappearing or filing bankruptcy.

The report of uncollected ADD/CVD is available at:
http://www.cbp.gov/linkhandler/cgov/import/add_cvd/cont_dump/cdsoa_06/fy_06_report/duties_for_06_rpt.ctt/duties_for_06_rpt.pdf

ICC's New Rules on Documentary Credits Now Available

The International Chamber of Commerce (ICC) announced on December 4, 2006 that the new rules for documentary credits, which are used for letter of credit transactions worldwide, are now available. The publication of the 2007 Revision of Uniform Customs and Practice for Documentary Credits, *UCP 600*, (ICC Publication No. 600) is the first revision of the rules since 1993 and represents more than three years of work by the commission. The implementation date is July 1, 2007.

These new rules were approved by the ICC Commission on Banking Technique and Practice on October 25, 2006. The *UCP 600* contains significant changes to the existing rules.

The full article about these changes and update can be found on the ICC's website at:
http://www.iccwbo.org/iccjjdi/index.html

Interpretive Guidance for Sudan

On November 17, 2006, The Office of Foreign Assets Control (OFAC) issued interpretive guidance to assist U.S. persons in complying with the provisions of Executive Order 13412 of October 13, 2006 ("E.O. 13412"), and in understanding the relationship of these provisions to the sanctions imposed by Executive Order 13067 of November 3, 1997. The guidance describes the prohibitions of E.O. 13412 and discusses transshipments and financial transactions in Sudan.

This guidance discusses the following points in relation to the Sudan:

- Prohibitions
- Exempt Areas of Sudan
- Transshipments
- Financial Transactions

The full interpretive guidance issued by OFAC, can be accessed on OFAC's website at:
http://www.treas.gov/offices/enforcement/ofac/programs/sudan/int_guide/su111706.pdf

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Luxury Goods Ban To North Korea

On November 29, 2006, U.S. Department of Commerce Secretary Carlos M. Gutierrez released a statement on actions being taken to implement UN Security Council Resolution 1718, imposing certain sanctions on North Korea in response to its testing of a nuclear device on October 9, 2006.

One of the measures the United States will take is a ban on the export of luxury goods to North Korea. This ban will be implemented by the Commerce Department's Bureau of Industry and Security (BIS).

Secretary Gutierrez noted that they are not imposing a full trade embargo, or restricting essential items like food and medicine that benefit the people of North Korea. Gutierrez's statement mentioned "while North Korea's people starve and suffer, there is simply no excuse for the regime to be splurging on cognac and cigars."

Regulations to implement the luxury goods ban and other steps required by UNSCR 1718 will be published in the Federal Register. The press release issued by Secretary Gutierrez can be found on the Department of Commerce website at: http://www.commerce.gov/opa/press/Secretary_Gutierrez/2006_Releases/November/29_Gutierrez_Ban_on_Luxury_Goods_Stmt.htm

Colombia to Join Container Security Initiative

On December 7, 2006, the United States signed a Declaration of Principles with the government of Colombia to help prevent smuggling of nuclear and other radioactive material.

The Department of Energy's National Nuclear Security Administration (NNSA) and the Department of Homeland Security's Customs and Border Protection (CBP) cosigned the declaration. The document covers implementation of NNSA's Megaports Initiative and CBP's Container Security Initiative, as both programs continue working together to stop nuclear material from being smuggled to U.S. ports. The agreement further underscores the close partnership between the United States and Colombia.

NNSA's Megaports Initiative works with foreign governments to install specialized radiation detection equipment and enhance capabilities to deter, detect and interdict illicit shipments of nuclear and other radioactive materials at international ports. The initiative currently is operational in six countries, and is at various stages of implementation and negotiations with approximately 30 other countries around the world.

Launched weeks after the terrorist attacks of 2001, CBP's Container Security Initiative is a cooperative effort with host country governments to identify and screen high-risk

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shipments before they leave participating ports. About 82 percent of all cargo containers destined for U.S. shores originate in or are transshipped through 50 CSI ports in North America, Europe, Asia, Africa, the Middle East, and North, South and Central America.

"Securing global trade is a major priority for CBP, so I am pleased to be partnering with Columbia, the Port of Cartagena, and the Megaports Initiative," said CBP Commissioner W. Ralph Basham. "We are committed to using high-tech equipment and smarter, more secure containers to safeguard the supply chain, but realize that cooperation from our friends around the globe is our most potent weapon."

Source: "U.S., Colombia Agree to Combat Nuclear Smuggling U.S., Colombia Agree to Combat Nuclear Smuggling" at:
http://www.cbp.gov/xp/cgov/newsroom/news_releases/12072006.xml#contacts

COMPLIANCE CORNER

"Importing into the U.S." Publication Updated

Customs & Border Protection has updated its publication, "Importing into the U.S." The full document is available on the CBP website at:
http://www.cbp.gov/linkhandler/cgov/toolbox/publications/trade/iius.ctt/iius.doc

"Importing into the U.S." explains the process of importing goods into the United States, including informed compliance, invoicing, duty assessment, the various free trade agreement programs, classification, valuation, and country of origin marking. Customs has provided this information to promote the understanding of, and compliance with, importing laws and regulations. However, CBP cautions the publication is for general purposes only and that importers may also wish to obtain guidance from experts such as licensed customs brokers or attorneys.

If you have any questions on the import process, please contact us at compliance@shapiro.com.

TRANSPORTATION UPDATE

January 2007

Far East
The Far East market still shows no signs of slowing down. Carriers are still running at nearly 100% capacity on all water services to the U.S. east coast. There will surely be a slow down and carriers predict they will start pulling some capacity as the peak season ends. The carriers announced they have extended the Peak Season Surcharge through the end of February 2007.

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The Transportation Stabilization Agreement (TSA) will seek a "cost-recovery program" for the 2007 shipping season. They are proposing the following GRI (General Rate Increase):

$300.00 per FEU on shipments to the West Coast
$650.00 per FEU on intermodal shipments
$500.00 per FEU on all-water shipments to the East Coast via the Panama and Suez Canals.

Contract negotiations will begin in the Spring of 2007. Most contracts from Asia expire on April 30, 2007.

Northern Europe

Hapag-Lloyd has reacted to the rate restoration plans of transatlantic rivals Maersk Line and Mediterranean Shipping Co. by announcing its own rate increase in the North Europe to North America trade. On February 1, 2007, the German carrier will raise its freight rates for the North Atlantic, U.S. Gulf and U.S. West Coast by $200 per TEU and $250 per FEU.

The Mediterranean

The bunker fuel surcharge has remained stable. Bunker surcharges will remain as follows to Atlantic and Gulf ports from all Mediterranean ports:

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

Special Equipment

There is still an acute shortage of flat racks, open top and other special equipment from Europe to the U.S. Importers requiring special equipment should forecast their needs 60 days in advance in order to secure the special equipment. This is a major struggle right now all over Europe.

South America

Maersk/MOL is discontinuing their service from Brazil into Miami/Port Everglades. The last vessel will be sailing from Itajai to Miami on December 19, 2006. New York will now be the first port of call with a transit time of 8 days. Maersk/MOL is also replacing the port of Itajai with São Francisco do Sul.

The state of Delaware expects greater Chilean fruit volumes reports American Shipper magazine. The Port of Wilmington, DE said it expects an increase in volumes in Chilean fruit imports because of favorable growing conditions in Chile and the addition of new shippers to the Pacific Seaways cooperative.

More than 40 ships carrying about 200,000 pallets are forecast to call at the port from December through June carrying table grapes, plums, nectarines, apricots, peaches, cherries, kiwi and other deciduous fruit. Apples, pears, and kiwi fruit will begin in

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April and continue arriving at the port through June. Last year the port handled about 190,000 pallets of Chilean fruit.

The fruit is loaded in Valparaiso, Coquimbo, and Caldera. Fruit moved through Wilmington is distributed throughout the U.S. East Coast, Midwest and Canadian markets. The port has 800,000 square feet of temperature controlled warehouse space, which it says is the largest dockside refrigerated warehouse complex in the United States.

Air News

Three major airlines reported increases in belly cargo in November. American, Continental, and United Airlines all saw year-over-year improvements in air cargo. The total traffic figure at American Airlines, the world's largest airline, decreased 1.1 percent as capacity decreased 3.7 percent. But cargo revenue ton miles (RTM) went up 1.9 percent to 192.8 million. Year to date, RTMs are up 0.5 percent to 2.03 billion. Continental Airlines carried 91.5 million RTMs, up 3.8 percent from last November. Year to date, RTMs are up 5.8 percent to 982 million. United Airlines cargo traffic increased 1.7 percent to 1.09 million RTMs as capacity decreased 5.1 percent. Year to date, RTMs are up 3 percent to 12.69 million.

Domestic USA

BNSF Railway Co. will reintroduce in January an intermodal container service from the Pacific Northwest region to Memphis. BNSF is pleased to offer its ocean carrier customers and their shippers another North American gateway for goods moving between Asia and the rapidly growing Southeast market as well as the rest of BNSF's expansive intermodal network. Expanded market coverage from the ports of Tacoma and Seattle, coupled with improved velocity, are just a few of the advantages customers will enjoy with this service.

Who Do You Blame for Demurrage in the New Security Era?

With each passing week, we in the shipping community can be sure of two types of news: announcements of new security measures and higher tariffs for demurrage and per diem. In 2007, it seems the stage is set for many conflicts when these two developments intersect for your shipments.

With steamship profits ebbing, the lines are looking for every possible means of creating efficiency for their operations and for protecting hard-won profits. In 2005-6, we have witnessed an industry-wide increase in the daily fees for demurrage (often $200 or more for the first day) while the number of free days has typically decreased. By the same token, free time negotiation in service contracts, once a benefit taken for granted, is now a difficult negotiation process and far from a “gimme.” The reduction in free time is in part justified by the heightened security environment and legitimate concerns about port congestion. However, the combination of tighter timelines at ports and railheads and a much more comprehensive and aggressive government

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approach to security puts the importing and exporting public in a delicate position. Your very tight margins and comprehensive cost containment efforts are quickly put at risk. We all want safety for our families and accept our responsibilities in that process, but we must be acutely aware that better efficiency in documentation flow and dedication to good logistics planning is vital.

This Fall Congress passed H.R. 4954, The Security and Accountability for Every Port Act which earmarks $400M for enhanced security measures. When you couple this news with our knowledge of Department of Homeland Security goals for cargo inspections, we can all see that a greater number of shipments will be scrutinized in the coming months and years. Through a greater dedication to C-TPAT initiatives, greater utilization of existing and new technologies, and improved cargo origin country procedures, the government's approach to cargo examination and verification picks up efficiency momentum every week. We applaud those efforts. We also realize that these efforts will contribute to additional costs for the shipping public, especially in the context of less free time and higher demurrage and per diem costs.

A closer look at the new environment reveals an even more complicated picture. More and more often, the steamship lines pool their equipment (especially chassis) in order to better serve customers and to better service damaged equipment. Much of the local responsibility for these pools sits with the terminal operators or other third parties. Therefore, in essence, the responsibility for steamship equipment is shifting away from the lines. While the pooling model has excellent benefits, it can be very frustrating for the shipping community when demurrage penalties accrue for cargo not placed on wheels or delayed in other elements of the equipment control process. It can feel like the party responsible for the charge created the situation in the first place. The problem for forwarders, brokers, and truckers is that clients often "blame the messenger" for the bad news. This is natural because these same clients have never faced such a difficult logistical environment. Gone are the quiet days of small delays occurring without direct expense.

The expenses become extremely difficult to avoid when steamship equipment travels the nation's rails. The rail system continues to be plagued by congestion, making strict equipment control rules for free time essential. Again, with security in such focus, nobody wants loaded containers sitting any longer than necessary. The congestion and the security needs have prompted many railheads to offer weekend services. This responsiveness to important customer problems is admirable; however, those weekend days count as working days and create difficulties for importers without weekend capabilities. And, just in case we were not challenged enough yet, the congestion delays and somewhat unpredictable rail transits that result make the steamship line's promise to provide timely arrival notices a difficult one to keep. If the importer chooses to file an RLF Customs entry at port of unlading to promote transit efficiency, the rail portion of the move becomes a "domestic" move. And, you guessed it, domestic moves tend to reduce free time.

In today's environment, we must remember two concepts for every shipment we move:

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1. Security is a good thing, and the process is becoming more efficient.
2. Your vendor choices throughout the supply chain are absolutely critical.

A trucker with a 10% lower rate on drayage can cost you 50% more by allowing a day of demurrage to accrue. If your Customs broker is not pre-filing entries, where is the problem? If your freight forwarder is using steamship and rail vendors who are not working with you and the forwarder to enhance performance, you may not be saving the money you thought on ocean freight. Consider that two unneeded days of demurrage will cost your firm as much as $400 or higher. All your hard work on cost containment feels wasted. More than ever before, it is the quality of your logistics partners and their solutions that will lower your overall costs. The answer to the question in the title is not a simple one. However, by talking about our frustrations and the possible creative solutions, the importer, the trucker, the steamship line, and the broker/forwarder can make steady progress in eliminating the inefficiencies that create unexpected cost.

For comments and questions, please e-mail Transportation@shapiro.com

SAMUEL SHAPIRO & COMPANY, INC. NEWS

News from Our Charleston Office - Security Grant Funding

The South Carolina State Ports Authority has received a total of over twenty million dollars in port security grants from the U.S. Department of Homeland Security. This funding has been obtained from six rounds of grants. This past fall the South Carolina State Ports Authority received its largest grant in the amount of $8.7 million. It was stated by Bernard S. Groseclose, Jr., president and CEO of the SCSPA, that the port is known for its aggressive security while facilitating the free flow of commerce. Groseclose also stated that the port is very pleased with the latest grant, which will help with the completion of necessary security projects. The port plans for the funding are for physical security enhancements such as access control infrastructure, scanning equipment, surveillance systems, and fencing.

Barbara Morris Appointed as Branch Manager for Norfolk Office

Samuel Shapiro & Company, Inc., a leader in global logistics and regulatory compliance, is pleased to announce the addition of Barbara Morris to its team of talented professionals.

As the new Norfolk office Branch Manager, Morris takes the reins from veteran Vinny Trovato. Trovato has accepted the position as Operations Project Specialist for Samuel Shapiro & Company. Morris' main objective will be to maintain outstanding levels of customer service and to further develop the success of the Norfolk branch. "I am very excited to join the Samuel Shapiro & Company team," said Morris. "I look forward to the success and growth of the Norfolk office."

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With over 25 years of customs brokerage and logistics experience, Morris worked at F.W. Myers in several capacities, including as a Regional Manager, and most recently as the Virginia Beach Branch Manager for Western Overseas Corporation. “We are very excited to have Barbara join the Samuel Shapiro & Company team,” said Michele Dunkle, Corporate Director of Import Operations. “Barbara's strong background in brokerage and logistics management makes her the ideal candidate to support our growth strategy in the Norfolk branch with continued support of Samuel Shapiro & Company, Inc.’s mission to provide exceptional customer service.”

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