"SHAP" TALK

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TRADE NEWS

Census Publishes Final Rule for Foreign-Trade Regulations

On March 14, 2013, the Census Bureau published new export reporting requirements that will become effective January 8, 2014. The long awaited final rule amends theregulations published in 2008 that govern how exporters must file electronic export information.

The final rule does not include many elements in the Proposed Rulemaking (NPRM) published in the Federal Register on January 21, 2011, (76 FR 4002). Various elements were not adopted due to industry concerns about obtaining the information, the costs associated with securing the information, and the availability of the information at the time of filing the Electronic Export Information.

Highlights of the changes to the FTR include:

1. *Postdeparture filing (§30.5)*
   - *A. The postdeparture filing timeframe has changed from 10 calendar days to 5 calendar days.*
   - *B. A moratorium on accepting new applications for postdeparture filing is still in place.*
2. *Household Goods*
   - *A. Change in Definition - The new definition is "Usual and reasonable kinds and quantities of personal property necessary and appropriate for use by the USPPI in the USPPI's dwelling in a foreign country that are shipped under a bill of lading or an airway bill and are not intended for sale."*
   - *B. The household goods export code can only be used for shipments where the USPPI is the ultimate consignee.*
3. *Used Self - Propelled Vehicles*
   - *A. Shipments must be filed in the AES regardless of value or country of destination 30.2(a)(1)(iv)(H)).*
   - *B. AES must be filed 72 hours prior to export (§30.4(b)(5)).*
4. *Port of export (§30.6(a)(9))*
   - *A. The port of export for shipments by overland transportation is where the goods cross the U.S. border into Canada or Mexico, including transshipments through Canada or Mexico to other countries.*
   - *B. The language for port of export was revised in §30.6(a)(9) to include FTR §30.6(a)(9)(i) and (ii).*
5. *Split Shipments (§30.28)*
   - *A. The term split shipments applies to all modes of transportation, not just air.*
   - *B. Change in definition - The new definition is "A shipment booked for export that is divided by the carrier into more than one conveyance and sent on two or more conveyances of the same carrier from the same port within 24 hours."*

6. *Exclusions*

   A. *AES filing is not required for licensed goods where the country of ultimate destination is the United States or for goods destined to international waters where the person(s) or entity assuming control of the item(s) is a U.S. citizen or permanent resident alien of the United States (§30.2(d)(5)).*

   B. *The Exclusion legend is required to be reported on the bill of lading, air waybill, export shipping instructions, or other commercial loading documents.*

7. *Exemptions (§30.37)*

   A. *The following exemptions were added:*

      » Exports of technical data and defense service exemptions as defined in 22 CFR 123.22 (b)(3)(iii) are exempt from the Electronic Export Information (EEI) filing requirements (§30.37(u)).

      » Reporting vessels, aircraft, cargo vans, and other carriers and containers when shipping as tools of international trade (§30.37(v)).

      » Shipments to Army Post Office, Diplomatic Post Office, Fleet Post Office (§30.37(w)).

      » Shipments exported under License Exception BAG (§30.37(x)).

      » Specific types of shipments destined for a country listed in Country Group E:1 (§30.37(y)). Country Group E:1 is Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria. These countries support acts of international terrorism.

   B. *The following exemptions were removed:*

      » Temporary shipments: temporary shipments of goods valued over $2,500 per Schedule B or that fall under 30.2(a)(1)(iv) must be filed in the AES. When reporting temporary exports report the appropriate export information code for temporary goods, such as "TE" export intended for return and "TP" domestic merchandise (§30.37(q) and I).

      » In-bond (in-transit) shipments (§30.37I). This is covered under the current exclusion (30.2(d)(1)).

8. *International waters*

   A. *Change in definition - The new definition is "Waters located outside the U.S. territorial sea, which extends 12 nautical miles measured from the baselines of the United States, and outside the territory of any foreign country, including the territorial water thereof. Note that vessels, platforms, buoys, undersea systems, and other similar structures that are located in international waters, but are attached permanently or temporarily to a country's continental shelf, are considered to be within the territory of that country."*

   B. *For licensed shipments to international waters, it will be required that the person designated on the export license must be reported as the ultimate consignee (§30.6).*

   C. *For Bureau of Industry and Security license exceptions and non-licensed shipments to international waters the filer will be required to report the nationality of the person(s) or entity assuming control of the item(s) subject to the EAR (§30.6(a)(5)(i)).*

9. *Data elements (§30.6). Two data elements were added:*
    A. *License value – Report the value indicated on the license.*
    B. *Ultimate consignee – There are four types:*
        » Direct Consumer
        » Government Entity
        » Reseller
        » Other/Unknown. Other/Unknown is an entity that does not fall under one of the other three ultimate consignee types or whose type is not known at the time of export.

In addition to these highlights, please note that a number of definitions (35) have been revised. The U. S. Census Bureau will continue its outreach and education efforts and we look for clarification on some of these changes. U.S. Customs and Border Protection has published the technical changes to the AESTIR (Automated Export System Trade Interface Requirements) at:
http://cbp.gov/xp/cgov/trade/automated/aes/tech_docs/proposed_aestir_ftr/

The final rule notes that § 30.6(a)(24) and (b)(15) containing information collection requirements have not yet been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). When OMB approval is received, the Census Bureau will publish a document in the Federal Register. For further information regarding these changes you may contact: Nick Orsini, Chief, Foreign Trade Division, U.S. Census Bureau, Room 6K032, Washington, DC 20233–6010, by phone (301) 763–6959, by fax (301) 763–6638, or by email - nick.orsini@census.gov.

The Federal Register notice with the final rule is available at:
http://www.gpo.gov/fdsys/pkg/FR-2013-03-14/pdf/2013-05435.pdf

Legislation Introduced to Increase Threshold for Duty Free Imports

The U.S. Senate and U.S. House of Representatives have each introduced legislation to increase the threshold for duty free imports from $200 to $800. Administrative exemptions under 19 USC Section 1321 and 19 CFR Part 10.151 are referred to variously as "Section 321 entries," "sections," "non-entries," OR "10.151 ENTRIES." A 10.151 entry allows the duty free entry of a shipment valued at $200 or less that is imported by one importer on one day. This means the importer may not enter multiple shipments in one day valued at $200 or less in order to take advantage of the duty free status. No entry number is required. No entry summary is submitted.

The de minimis level has been at $200 for about 20 years. Raising the level to $800 will promote faster border clearance and reduce transaction costs, particularly benefiting small businesses that import low value shipments.

The legislation also asks the U.S. Trade Representative to
work with other countries "to establish commercially meaningful de minimis values."

CBP States Changes to CFR Part 111 May Be a Multi-Year Process

In a recent interview Elena Ryan, Director of Trade Facilitation and Administration, with Customs and Border Protection (CBP) stated that the planned changes to 19 CFR Part 111 concerning Customs Brokers and the Role of the Broker will be part of a single rulemaking rather than piece by piece. Although she would not estimate a timeframe for the changes to be implemented, she did state that the rulemaking process can be a multi-year process.

Topical changes still include:

- *Continuing education for brokers. Concerns include the role of the National Customs Brokers and Forwarders Association of America (NCBFAA) as the administrator of such a program, and applying the requirements to established vs. newly licensed brokers. The 3 significant parts of the program will include ensuring quality and meaningful education, how to report its completion to CBP if required, and the consequences for non-compliance with or non-completion of the requirements. CBP plans to publish educational requirements well in advance of their commencement since the requirements will affect all licensed brokers, and will be totally new requirements unlike some other parts of the update.*
- *Validation requirements such as identity documents and articles of incorporation will be likely in relation to vetting importers and the new CBP Form 5106 data requirements. The changes to the 5106 will be separate from the regulatory changes; a form changeis a much simpler process.*
- *Potential changes to geographic areas. CBP terminated the local permit waiver pilot program for brokers, but it may reduce the number of Customs districts. CBP is also looking at extending waivers to those unable to find a licensed broker within a certain district from 1 to 3 to 5 years.*
- *A broker's supervision and control. Factors are now currently contained in the regulations, but may be better suited by being left out CBP will be publishing more direct, specific guidance on the issue.*
- *Although not regulatory changes,the use of trusted trader programs, Customs-Trade Partnership Against Terrorism (C-TPAT), etc. as a way of vetting importers and satisfying bona fides requirements.*
- *Changing the triennial report requirement for brokers by making it a biennialrequirement, or by terminating the requirement altogether.*

In summary, Ryan stated that many of the proposed changes face opposition and disagreement and that the Part 111 update remains in flux. There will most likely be changes and revisions up to the point of publication.

Broker Working Group Proposes Recommendations on Future Role of Customs Brokers

The Pacific Coast Council of Customs Brokers and Freight Forwarders (PCC) submitted a report to Customs and & Border Protection (CBP) outlining recommendations to policymakers as part of the discussion of the Role of the Broker changes being contemplated by CBP.

The recommendations include:

- *Any additional data collected from the importer by the broker must be collected via reasonable effort by the broker in conjunction with the broker's and importer's standard commercial operations.*
- *Any requested data elements must be specific not encompassing a vagueassertion that the broker use due diligence in providing data.*
- *The data must be consistent with CBP's commercial operations and responsibilities.*
- *The data must be accepted by CBP under electronic transmission technology vs. hard paper copies or faxes.*
- *New regulations concerning the collection of data must be applied equally to all brokers regardless of size.*
- *Any continuing education requirement should be applied only to active, not inactive brokers, and inquiries to other industries should be made to determine how continuing education is mandated in those industries to serve as a model for CBP and the broker communities.*
- *No new virtual or any other type of new permit system should be initiated until CBP adopts full remote electronic capabilities and document imaging.*
- *All brokers regardless of size should have full access to CBP's Centers of Excellence and Expertise in order to ensure compliance by importers.*
- *Proposed changes to the CBP Form 5106 data elements must be realistically obtainable by the broker and useful to CBP via electronic submission.*
- *A broker's roles and activities often exceed CBP's regulatory scope whether considered Customs business or not, including supply chain issues, such as problems with releases at terminals or container freight stations. As such those activities should remain outside CBP's scope.*

In summary, as technology changes the role of the broker, importers, exporters, and CBP will be reliant on brokers to provide advice on classification and other entry requirements, and to provide data management of entry elements. The means to this opportunity need to be agreeable to both CBP and the broker community.

Customs Presentation on Wood Packing Material

U.S. Customs and Border Protection has released a presentation on wood packing material (WPM). This extremely informative document provides an overview of the WPM regulations, examples of compliant WPM marking versus improper marking, what pests are of concern (you may be surprised at how tiny and destructive they can be), and what commodities are more likely to harbor these pests. WPM without the ISPM 15 stamp must be exported. WPM with the ISPM 15 stamp but found to contain a wood boring insect must be exported. WPM with the ISPM 15 stamp but found with a non-wood boring pest may be fumigated. Non-compliance with WPM regulations means not only a financial cost but also an ecological cost.

The presentation is available at:
http://www.cbp.gov/linkhandler/cgov/trade/trade_outreach/wood_packaging_pp.ctt/wood_packaging_pp.pdf

CBP Proposes Test Method for Footwear with Textile Soles

In November 2011, Additional U.S. Note 5 was adde d to Chapter 64 of the Harmonized Tariff regarding the application of a textile layer to the soles of footwear, "For the purposes of determining the constituent material of the outer sole pursuant to Note 4(b) to this Chapter, no account shall be taken oftextile materials which do not possess the characteristics usually required for normal use of an outer sole, including durability and strength." The question remained how Customs would interpret this language and whether laboratory testing procedures should be used to make a determination. Textile soled footwear has significantly lower duty rates than footwear with soles of rubber, for example.

Customs asked for input from the trade regarding the best approach to administering Note 5. After receiving and reviewing comments, Customs has published a notice in the March 27, 2013 Customs Bulletin with a proposed test method using the ISO 20871 test for the performance of footwear outer soles. Three samples are taken from the outer sole and the surface area is subjected to an abrading machine. The samples are weighed before and after the test. Customs will be looking at whether the textile material will still be present on the samples after testing.

In order to demonstrate that the terms of Note 5 have been met, importers who are requesting a ruling or responding to a request for information should present independent laboratory reports applying the ISO 20871 test.

The March 27, 2013 Customs Bulletin may be found at:
http://www.cbp.gov/xp/cgov/trade/legal/bulletins_decisions/bulletins_2013/vol47_03272013_no14/

TRANSPORTATION NEWS

May 2013 Update

Trans-Pacific Maritime Conference 2013 Review

The 13th annual TPM Conference was held March 4 - 6 in Long Beach, CA, and several Samuel Shapiro & Company, Inc. employees were part of the record 2000 logistics, carrier, and importer/exporter professionals in attendance. The following articles are the main takeaways from the 2½ day conference:

Maersk to Increase Productivity As It Struggles to Get Back In the Black

Soren Skou, President of Maersk Line, was the first key speaker of the conference. He told the crowd that Maersk Line will take delivery of the first of five 18,000-TEU ships later this year. He said this new capacity would have no impact on the total fleet capacity this year for Maersk because when they introduce these larger vessels they will take other vessels out of their rotations. Mr. Skou also introduced Maersk's new customer care program to greatly improve the efficiency of the booking and documentation process for Maersk's clients.

Mr. Skou also mentioned how Maersk has been absorbing the ever-increasing bunker fuel costs over the years so they have been forced to offset this extra cost by slow steaming and building larger vessels in their fleet. Maersk plans to use the larger vessels in the Asia to US East Coast and Europe trade via the Suez Canal and the smaller vessels to the US East Coast and other markets via the Panama Canal. They have moved to this strategy due to the fact that shipping via the Panama Canal to the US East Coast is not very profitable. The current 13,000 TEU vessels used in the Asia to Europe trade will most likely be redeployed to the Asia to US trade and the megaships will go to Europe.

Mr. Skou announced that Maersk is currently losing about $8 million per day and they are seeing about a 6% gap in supply vs. demand. Maersk will therefore step up slow steaming, scrapping, and idling of the smaller vessels. Maersk has 3 major concerns (as do the other carriers):

1. *Annual contracts need to take rate increasesto ensure the carriers remain viable and profitable businesses*
2. *Carriers will need to invest less on equipment; so they will no longer supply chassis and they will no longer supply containers in areas that are deemed less critical*
3. *Refrigerated container rates will go up to help restore profitability.*

Mario Moreno, Chief Economist for the Journal of Commerce reported that the 2012 forecast for trade growth from Asia was forecasted at 2.5% last year and the actual growth rate ended up being 3%. Economists are projecting the growth in the Asiatrade to be only 2% in 2013. Growth has slowed in the past year due to high inventories for importers in the U.S. coupled with low retail sales. The housing and auto industries were the industries that did stimulate growth beyond what was projected. Carriers made their orders with the shipbuilders during previous years when the Asia trade was more robust. As a result of the slowed growth in the China trade, the carrier's orders for larger vessels to be built will cause the capacity to increase by 10 to 11 percent this year, which is far higher than the growth in global demand. For this reason, it will be difficult for the carriers to enforce the type of rate increases they had hoped they could impose on April 1 and again on May 1.

Carriers Unload Chassis Responsibility

Back in 2009, the ocean carriers operated 50% of the nation's intermodal chassis supply. Their share dropped to 32 percent in 2012, and is due to drop to 20 percent in 2013. Thirteen of the twenty largest container lines in the U.S. market have sold all or some of their chassis fleets, and leasing companies have become the new dominant suppliers.

The chassis supply environment will remain confused for the next couple of years as motor carriers will be called upon to rent or lease chassis that ocean carriers traditionally supplied for free in the past. This extra cost will be passed on to the importers and exporters because the leasing companies cannot do this for free.

2012 saw a major development in the formation of the North American Chassis Pool Cooperative (NACPC) by eleven motor carriers in the American Trucking Association. The NACPC is purchasing ocean carrier's chassis and contributing them to the Consolidated Chassis Management (CCM) that was formed back in 2004 by the carriers so that the chassis can be shared in six regional co-op pools. The new pools being formed by the NACPC are called "gray chassis" pools. The NACPC also aims to keep the chassis pool modernized so they will maintain the chassis equipment by making sure they have the most up to date accessories.

The ports of LA and Long Beach are working to better manage and maintain the chassis pool so that the chassis storage yards are put to more efficient use.

Importers have pointed out that in the past chassis expenses were often hidden in the ocean carrier rates and they were not actually "free," so they would like to make surethat the carriers adjust their rates as they take chassis out of their costs. Importersare also concerned that chassis charges will not be itemized by the trucker fairly.

Sequestration to Affect U.S. Supply Chains

There is concern in the international trade community that U.S. importers may see their cargo clearance process slow this spring because federal sequestration will mean that Customs manpower will be reduced. A wider reaching effect on trade could resultfrom delays at seaports and land borders as cuts in freight-related transportation programs weaken the nation's infrastructure. The budget cuts that will affect U.S. Customs are part of the first wave of $85 billion worth of cuts on federal spending that will total $1.2 trillion over the next 10 years. This will put extra pressure on Congress to stop future cuts by tackling the federal deficit. Please see our March 2013 issue of Shap Talk for further information on sequestration.

Mexico Emerges As Global Trade Power

Mexico has a very strong case for growth over the next several years. The main factoris the youth of the Mexican population continues to grow at a time when othereconomic powerhouses in the world are seeing their population age. Mexico is closing the wage gap with China, and the growth in trade is resulting in more manufacturing in Mexico. There is a growing shortage of low-skilled labor in China, and Mexico is filling the gaps. Mexico has enjoyed an economic growth of 23 percent in 2012. The Mexican ports of Lazaro Cardenos and Manzanillo are poised for explosive growth in the coming years, and ocean shipping in Mexico will grow at a faster pace than surface trade to the rest of the Americas. In some manufacturing sectors, such as toys, Mexico is enjoying a higher level of growth than China.

Due to tightening trade policies between Mexico and China there is only a 2% projection of trade growth between the two countries. Both nations want to protect their manufacturing sectors from the other.

U.S. and Canada Environmental Regulations Increase Bunker Fuel Costs

Container carriers that call on U.S. and Canadian ports are preparing for higher costs required to meet the recently heightened environmental regulations that are being imposed. The rule under International Maritime Organization requires vessels to emit less than 1 percent sulfur when they are within 200 miles from the U.S. and Canadian coasts. By 2015, the permitted sulfur emission level will fall to 0.1 percent. This is causing the carriers to be required to use more expensive and cleaner fuel and they will need to invest more heavily in scrubbing technology. This is expected to increase the industry's annual fuel expense by as must as $100 million per year, and shipperswill be the ones to bear much of this cost by paying increased bunker fuel surcharges to the carriers.

Desirable Terminal Automation Investments in U.S. are Cause for Pause

U.S. terminals currently yield approximately 25 moves per crane per hour. With proposed automation the new yields are expected to be up to 40 move per crane per hour. U.S. ports are notably the most expensive to run in the world, yet they are some of the least productive. While there is no doubt that things need to improve at U.S. container terminals to remain globally competitive, the question that begs to be answered is can terminal operators invest in automated terminals in the short term if they cannot generate enough container volumes to cover the extra $400 million to $600 million in costs that are required to fully automate vessel, yard, and on-dock rail operations. In a climate of infrastructure cost cutting, how will this work?

SAMUEL SHAPIRO & COMPANY, INC. NEWS

Shapiro Attends 2013 WBENC Summit & Salute to Women's Business Enterprises

Samuel Shapiro & Company, Inc. recently attended its first Women's Business Enterprise National Council (WBENC) conference after becoming Women's Business Enterprise (WBE) certified by the organization in October 2012.

The 2013 WBENC Summit & Salute to WBEs was held in Baltimore, MD, on March 13th and 14th, and brought together over 1,200 participants, including some of America's leading corporations, government agencies, women business owners and strategic partner organizations. WBENC's Annual Salute followed the Summit and highlighted the significant contributions of WBEs to the United States economy, and paid tribute to the 14 WBE Stars of 2013. In addition, select corporations that provide WBEs with growth opportunities in today's competitive marketplace received top honors at this gala recognition event.

Preceding the Summit & Salute, Shapiro also attended the WBENC's Government Opportunity Experience hosted by Moe Vela, former Director of Administration for Vice President, Joe Biden. This signature Government Opportunity Experience was designed to provide knowledge and access to the government procurement process through meetings with high-level decision makers from both the public and private sector.

"The WBENC Government Opportunity Experience and Summit & Salute events absolutely exceeded our expectations," noted Brunella Reid, Senior Manager of Marketing & Strategic Development for Samuel Shapiro & Company, Inc. "We had the opportunity to meet with remarkable corporations, fellow WBEs, and other field representatives. Shapiro is grateful to WBENC for such a warm welcome into the WBEfamily and for providing WBEs with a rich learning experience and opportunities to develop important relationships. Shapiro is looking forward to attending the 2013WBENC National Conference & Business Fair in Minneapolis this June."

Shapiro Welcomes Jennifer Tobin as Accounting Manager

Samuel Shapiro & Company, Inc. recently announced the addition of Jennifer Tobin, CPA, as Accounting Manager at its headquarters in Baltimore, MD. Tobin joins Shapiro with over 6 years of progressive accounting and financial management experience. Prior to Shapiro, Jennifer served as accounting manager with Astrum Solar, Inc. where she managed the accounting department with direct supervision of a staff of four and provided oversight of various financial and human resources functions. Tobin also worked as a senior accountant with TESSCO Technologies, Inc., which she assisted with SEC filings, compiled quarterly earnings, performed budget analysis, financial audits, and helped prepare financial performance summaries. Tobin received her bachelor's degree in business administration from Franklin and Marshall College, graduating magna cum laude. She went on to receive her master's degree in business administration from Loyola University as well as earning her certification as a public accountant.

Tobin's responsibilities at Shapiro will include directing and coordinating all accounting, credit and finance functions. Specific responsibilities include financial and management reporting functions, cash flow, forecasting, and budgeting, along with handling external audits. She will be overseeing and mentoring a staff of five in the accounting department.

"Jennifer will be a great addition to the finance team," notes Randy Lott, Chief Financial Officer for Samuel Shapiro & Company, Inc. "She brings a skill set and level of experience that will complement our current team, and rounds out our department very nicely. We're excited to have her on board with us."

Employee of the Month

As previously featured in "Shap" Talk, Samuel Shapiro & Company, Inc. 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 Elizabeth Stangenberg, Transportation Service Representative in Baltimore, for her outstanding performance and contributions. We encourage you to provide us with employee feedback! Please email us at hr@shapiro.com.

WE WANT TO HEAR FROM YOU!

Do you have suggestions for an article? Is there a topic you'd like us to cover in a future issue? Please let us know! Send your feedback to shaptalk@shapiro.com.