

**Commercial Customs Operations
Advisory Committee (COAC) meeting
August 23, 2017**



**Public Comment received on August 16, 2017 from
the EXPRESS ASSOCIATION OF AMERICA**



August 9, 2017

EXPRESS ASSOCIATION OF AMERICA POINT PAPER ON HARMONIZED TARIFF SYSTEM NUMBERS

Issue: Harmonized Tariff System (HTS) numbers do not add value to the process of assessing risk on possibly non-compliant shipments, and may actually detract from that process.

Discussion:

- The Harmonized Tariff System is designed and managed by the World Customs Organization as a means of categorizing products in order to determine the amount of duty each country charges on them.
- Accurate descriptions of the goods are more important for CBP than an HTS number to determine risk and review criteria.
- In the ACE Implementation Guides that are published by CBP for each of the other government agencies, it is clearly outlined that the HTS number cannot be relied upon to determine admissibility or applicability for the PGA's. As such, the HTS and any flags associated to them should not be required for PGA admissibility determinations by these government agencies, including CBP.
- Determination of admissibility for the PGA's rests on the description and the use of the product itself. This is not accurately represented by the HTS number flags, and is a reason that many PGA's require additional information to determine if a product is subject to that PGA in their reviews. A detailed description is an existing requirement in the current regulations. If a description is not detailed enough to determine admissibility, CBP should address this with the carrier including denying entry of the merchandise.
- If a description is not detailed enough to provide an admissibility determination, it is unlikely that an HTS number will be accurate if assigned using that same description. A bad description likely results in an incorrect HTS number.
- If CBP intends to utilize the HTS number for routing purposes, it should only be limited to those instances where it is provided in the normal course of business. Manifests, while having the ability to supply the HTS along with a description, typically do not contain the HTS number.
- If CBP intends to utilize the HTS number for routing transaction to the PGA's, the manifest capabilities in ACE will have to be reprogrammed to isolate a field for the HTS number, as it currently resides in the description field and is not linked to underlying HTS number flags.
- Prior communication by CBP with EAA members have stressed the success of targeting efforts, specifically the nature of the partnership aspect. If targeting is currently successful, the EAA members would like to understand the need for changing to require an additional data element.

- Express consignment operators already have a sophisticated process for identifying PGA regulated products that is superior to providing HTS numbers. This should be recognized as a best practice.
- No shipper of fentanyl or other illicit goods is going to provide an accurate description of the goods. Assigning an HTS number to these shipments would serve to mask over that fact and actually detract from the accuracy of the risk assessment.
- Targeting for IPR violations will not be enhanced with the HTS number as the HTS does not contain this type of information to assess additional risk. The parties to the transaction are more appropriate in this scenario.
- CBP and OGA targeting, for both security and compliance, should rely on an analysis of the shipper, consignee, and description of the goods. HTS numbers do not add value to that process, and could subtract value.
- Requiring the assessment and addition of the HTS number would add costs, specifically to the small and medium businesses that are actively participating in this business area, without a return on investment. Supply chains that are not sophisticated will be adversely impacted by a requirement for the HTS number to be transmitted.

Recommendation: Develop capabilities to provide clearance of Section 321 shipments by both CBP and the PGA in all modes of transportation without relying on a requirement for HTS numbers, which are not useful for admissibility determination.