

Virtual Trade Week: E-Commerce Session Frequently Asked Questions (FAQs)

Q. Can a licensed Customs Broker electronically file an Entry Type 86 on behalf of the Importer of Record (IOR)? Does the Customs Broker have to be the IOR on such entries?

Yes, the IOR field is a conditional field for Type 86 entries usually only required for entries with Partner Government Agencies (PGA) data requirements. If required, a valid IOR is required and if not known or available, the broker may choose to use their IOR number. If the Harmonized Tariff Schedule of the United States (HTSUS) is not on the list of PGA required submissions, the IOR is optional and thus can be left blank or an appropriate IOR could be included.

Q. In a Section 321 pilot context, how critical is or will the correct “country of origin” data requirement be, versus merely the “country of export”?

Part of the Section 321 pilot evaluation is looking at these data elements. Entry Type 86 does require country of origin determination in addition to the HTS where manifest is designed to capture transportation information. U.S. Customs and Border Protection (CBP) is evaluating a new dataset that will capture both while maintaining simplified and minimal datasets.

Q. How do express courier shipment operators ensure that commercial imports do not exceed \$800 per customer?

CBP is working with the express operators to conduct post audit reviews and identify their customers and delivery locations that we believe are ineligible for Section 321 treatment. The carriers have also been provided the CBP parameters for evaluation and are conducting their own analysis to prevent these shipments from being identified as eligible or to ensure that guidance is followed where appropriate.

Q. Section 321 has limits. Please explain them.

Section 321 allows for a "person" in the U.S. to import up to \$800 in aggregate value on a single day without payment of duties and taxes. CBP has the authority to waive certain fees (not all) up to \$20 per shipment under a different provision of the regulations. There are limits to Section 321 including a prohibition on splitting shipments into individual shipments in an attempt to avoid normal entry processes, disallowing Antidumping and Countervailing Duties (AD/CVD) and quota merchandise, disallowing alcohol and tobacco.

Q. Now that effective results have been received for the pilot programs, is there a timeline for these programs to end?

CBP is taking steps towards establishing new regulatory data requirements for Section 321 shipments. The Section 321 and Entry Type 86 pilots will sunset as these new requirements take effect.

Q. Given the various modes of transportation involved in E-Commerce cross border facilitation, how does CBP intend to address the various regulatory requirements that continue to add challenges to both trade and CBP? For example, various transport modes or status dictate the type of data provided (truck vs. non Express Air or Ocean).

CBP is working to identify a standard process of submission of data for the actual shipment that would be provided by the party best able to provide it. Carriers would continue to meet their existing requirements of advance manifest for security. Part of the evaluation would be if the additional filing could also act as a security filing, negating Importer Security Filing (ISF) and Air Cargo Advance Screening (ACAS) at the lowest level for those e-commerce shipments.

Q. Can Section 321 be used for commercial shipments or personal shipments?

Section 321 may be claimed for shipments being imported into the U.S. on behalf of a given person in a given day up to an \$800 aggregate value. When claimed, it is evaluated based on those parameters (and a few others) to determine eligibility. There is no personal versus commercial determination. NOTE: Gifts and personal shipments do have ability to be released off the manifest based on claim by importer or shipper but are not processed electronically.

Q. Are commodities regulated by Partner Government Agencies (PGAs) allowed to import under de minimis, Section 321?

They are, as long as the PGA data filing elements are met. All PGAs have identified their requirements and have identified Entry Type 86 filing as the process. We are working with the PGAs to refine and improve the process.

Q. What is the difference, or pros and cons, between Section 321 data pilot and Entry Type 86 test?

The Entry Type 86 test allows for entries that qualify for de minimis to be filed via Automated Broker Interface, including those subject to PGA data requirements for clearance. The Section 321 Data Pilot allows CBP to collect additional and advance data from E-Commerce actors, including online marketplaces and logistics companies, for risk segmentation purposes. A crosswalk comparing these two pilots can be found here:

<https://www.cbp.gov/document/guidance/e-commerce-and-section-321-shipments>

Q. Can you elaborate on any strategy to tie Customs Trade Partnership Against Terrorism (CTPAT) and E-Commerce?

CBP is exploring the merits of expanding the scope of CTPAT to encompass online marketplaces and Section 321 shipments. CBP is consulting the trade community in assessing potential applicability, eligibility requirements, and minimum security requirements.

