



## **Overview of EMTC 21CCF Proposal**

### **Summary**

EMTC's Proposal for 21<sup>st</sup> Century Customs Framework (21CCF) is a redline of Title 6 (Homeland Security) and Title 19 (Customs Duties) of the U.S. Code to provide specific statutory text recommending changes that include new entities into the customs process, allocate regulatory responsibilities among the parties, and introduce new risk management techniques as part of the regulatory regime.

### **6 U.S.C. § 961 – Establishment (of C-TPAT)**

Amends Section 961 by adding Section 974 to:

- (a) authorize the Secretary of Homeland Security and the Commissioner of Customs and Border Protection to recognize voluntary private sector developed supply chain security programs based on recognized international standards.

*Reason for Change:* This provision enables CBP to extend trusted trader status to companies who participate in private sector developed supply chain security programs which are designed to be global programs using International Standards Organization (ISO) requirements.

### **19 U.S.C. § 1202 – Harmonized Tariff Schedule (Amendment to Chapter 98)**

Amends Subchapter XXIII for Simplified Harmonized for Informal Entry to add:

- (a) a bucket category to classify articles for low-value shipments with a declared value above \$800 (ceiling for *de minimis* shipments under 19 U.S.C. §1321) and below \$2500 (threshold for formal entry).

*Reason for Change:* For informal entries, Congress should require CBP, in coordination with other agencies, to implement a “bucket” system for Harmonized Tariff Schedule (HTS) classification for eligible shipments, e.g., a limited number of classifications instead of the 10,000+ tariff lines currently found in the HTS. Excluded from “bucketing” would be Participating Government Agency (PGA) shipments and other “restricted” goods where 10-digit HTS codes are required. However, for those informal entries where HTS codes are required, an expansion of the Entry Type 86 clearance processes could also apply.

### **19 U.S.C. § 1415 - Mandatory advance electronic information for cargo and other improved customs report procedures**

Amends advance data requirements by adding a new subsection (a)(3):

- (a) waiving the requirement to provide a Harmonized Tariff Schedule number for articles entered in the administrative exemption for *de minimis* shipments under 19 U.S.C. § 1321 and providing for targeting systems using artificial intelligence to identify shipments regulated by federal agencies.

*Reason for Change:* This provision enables CBP to use more sophisticated targeting systems for low-value shipments, which is high volume and requires an automated approach.



Amends section 1415(l) by adding the following:

- (a) the Secretaries of Homeland Security and Treasury promulgate regulation to accept advance data used for security for cargo release and entry when submitted by CTPAT and trusted trader program members.

*Reason for Change:* This provision enables CBP to extend a tangible benefit to trusted traders which are companies that CBP has the most amount of security and compliance data on.

#### **19 U.S.C. § 1431 – Manifest**

Amends section 1431 by deleting subsection (c)(1)(A) which provides for the public disclosure of manifest information.

*Reason for Change:* Currently, importers submit manifest information to CBP as part of the security filing and entry process, and CBP then releases that data to companies who compile the data into searchable databases for sale to the very importers who supply the data. Importers can file a request with CBP to keep their manifest data confidential, but the system requires vigilance and often is not foolproof in keeping the company's data confidential.

Amends subsection (d)(1)(B) by adding authority for the Secretary to implement simplified processes as a substitute for the normal entry process.

*Reason for Change:* To accommodate new entities engaged in global trade reduce complexity of the entry process by increasing compliance.

#### **19 U.S.C. § 1484 – Entry of merchandise**

Amends subsection (a)(2)(B) by adding the following:

- (a) a provision allowing the foreign sellers to designate an agent facilitating the shipment to make entry based on the best information available including the security filing data.

*Reason for Change:* In direct-to-consumer shipments, there is no traditional importer of record who has all the regulatory responsibility under the current statute. This provision permits the foreign seller to designate an agent to make entry on its behalf. Since the agent is making entry using the data provided the foreign seller, the provision recognizes that the data may be considered the best available data so that the agent will not be penalized for any misstatement based on the data generated by the foreign seller.

Adds a new subsection (a)(2)(D):

- (a) permits an importer of record or agent authorized to make entry to use system based on artificial intelligence and machine learning to make customs determinations on tariff classification, value and origin. The provision requires the Secretary to accept such determinations so that an importer or agent using such system meets reasonable care standard.



*Reason for Change:* Many companies are turning to sophisticated systems to make customs determinations and this provision assures companies who use these systems in good faith as a risk management tool to avoid penalties may seek a ruling from CBP.

Revises section 1484(c) concerning the Release of Merchandise by:

- (a) allowing the filing of security data in lieu of entry data by CTPAT members or companies who participate in trusted trader programs.

*Reason for Change:* Currently, importers of record make multiple data filing submissions to CBP: 1) an importer security filing (ISF) 24-hours after lading the cargo at the port of export; and 2) a customs entry filing to release the cargo from CBP. Many of the data elements in the ISF and the customs entry are the same, and the data does not change.

This provision allows companies who are trusted traders to make one filing to serve as a security and entry filing. Congress and CBP are seeking additional information from importers earlier in the supply chain, which will give CBP the opportunity to conduct targeting earlier. This should ensure that cases where CBP needs to issue a recall of goods that already have been released should be limited and only occur when the goods represent a serious threat to health or safety. To balance this additional burden on industry, CBP should have its redelivery authority limited to only 14 days, rather than the current 30 days.

### **19 U.S.C. § 1498 – Entry under regulations**

Changes section 1498(a)(1)(A) to:

- (a) increase the aggregate value for informal entries from \$2,500 to \$5,000

*Reason for Change:* This change recognizes the increase in direct-to-consumer shipments and increases the number of shipments that CBP can handle through an informal entry process with simplified processes.

Adds section 1498(a)(13) on Express Delivery to:

- (a) recognize the express delivery process as unique procedure for expedited clearance and allows a single submission of data for an express shipment, expedite release based on single filing, and consolidate entries.

*Reason for Change:* Congress should recognize the express procedure for identifying shipments regulated by Participating Government Agencies (PGA) in the International Trade Data System and ensuring the appropriate data (PGA message set) is submitted as a best practice and a viable alternative to providing an HTS number for *de minimis* shipments. This provision provides more facilitation to express delivery shipments because of the investments in technology by the express air carriers by reducing the number of filings with CBP similar to trusted traders in the new section 1484(c).

Adds a new section 1498(c) on the Right to Make Entry for Informals:

- (a) allows electronic filing for *de minimis* shipments by any party in the supply chain as designated by the owner, express carrier or consignee, and by a customs broker.



- (b) allows electronic filing for informal entry shipments (i.e., entries with aggregate value above \$800 and under \$5,000 as raised in section 1498(a)(1)(B)) by any party in the supply chain as designated by the owner, express carrier or consignee, and by a customs broker.

*Reason for Change:* This provision provides more facilitation to provide electronic filing for low-value shipments covered by de minimis (19 U.S.C. § 1321) and informal entries (19 U.S.C. § 1498) and expand the parties who can file data for entry. Congress should raise the \$2500 formal clearance threshold for trade-sensitive goods (e.g., textiles) in order for more shipments to be considered informal entries.

EMTC is a trade association formed in July 2021 to represent the interests of the e-commerce industry by creating a global community of micro, small and medium size enterprise (MSMEs) e-sellers, marketplace platforms, and service providers to resolve trade, tax and transportation challenges. EMTC's advocacy mission is to support national and international policies that simplify cross-border transactions of physical and digital goods. EMTC facilitates dialogue among the E-Merchant worldwide community and global regulators.