

AmCham EU position on a 6 digit HS (harmonized system) code in the entry summary declaration (ENS) prior to the arrival of consignment into the EU for safety and security reasons

Executive summary

With the implementation of the UCC (Union Customs Code) the EC (European Commission) proposes to change EU customs risk management by extending the existing risk management system with a pre-loading entry summary declaration (ENS) to stop a bomb from being loaded on a plane or vessel at origin. This proposal also includes the requirement to provide a 6-digit HS code (harmonized system code) prior to the arrival of the goods in the EU. Both requirements cover all shipments except items of correspondence and transit shipments. For the vast majority of shipments a 6 digit HS code is simply not available prior to the arrival of the goods, specifically for those involving small to medium enterprises (SMEs). The requirement for the carrier or other parties to provide the six digit HS code at a time when it is not available will lead to significant delays and result in a serious distortion of the supply chain.

There is no evidence that the inclusion of the 6 digit HS Code prior to arrival will have a positive impact on risk analysis and it can result in significant delays in existing time-

American Chamber of Commerce to the European Union (AmCham EU)
Avenue des Arts 53, B-1000 Brussels, Belgium
Register ID: 5265780509-97
Tel: +32 (0)2 513 68 92 | www.amchameu.eu

Secretariat Point of Contact: Ania Szatkowska, asz@amchameu.eu +32 (0)2 289 10 33

sensitive supply chains. Therefore, we oppose the requirement for a 6 digit HS code to be provided prior to arrival. Recently conducted air cargo security pilots support that risk analysis is mainly based on origin, consignor and consignee data and the exchange of intelligence. Providing the 6 digit HS code as per the current delays is not expected to improve risk management.

As an alternative for the 6-digit HS code, we defend the current options foreseen in Annex 30a of Commission Regulation 2454/93, namely to provide an acceptable goods description or an HS code. Good descriptions are as good a risk management tool as HS codes, if not a better one.

We submit the following arguments supporting our position:

1. The introduction requires a cost analysis and impact assessment prior to the implementation

The European Commission believes that the 6-digit HS code is readily available for the traders. This is not correct. The requirement to request this data element for all shipments (except items of correspondence) will double the number of ENS compared to the volume of ENS submitted today. Today, shipments with a value below 22 € do not require an HS code for fiscal customs clearance, and neither do transit shipments remaining on board an aircraft while in the EU. However, under the Commission's plans, the ENS for these shipments will in future need to include a 6-digit HS code for safety and security reasons. This requirement will have a big impact on several data models and it will lead to enormous additional costs for these traders and for certain industries such as the express operators. It will add red tape for European importers at a time when the EU should be providing trade facilitation to boost the European economy. An in-depth cost analysis and impact assessment is required prior to the introduction of such a requirement to avoid these significant additional burdens being placed on companies.

2. Any change to the EU customs risk management should be based on international standards and existing safety and security programs

As long as there is no international requirement to have the exporter provide an HS code on their shipping documentation, the introduction by the EU of this requirement will disrupt the flow of goods and delay the supply chain while adding a substantial cost for all citizens in the EU. If at all, the requirement should be launched through an international organization such as the WCO, and entail an obligation for the originator/exporter of the goods to maintain a HS code database for their goods and to provide this information on their shipping documentation from the outset, so that the other parties in the chain that have to submit this data element prior to loading have this information in time.

We add that unfortunately, trusted trader's programs such as AEO or C-TPAT have not been taken into account when this requirement was introduced. Given that AEO traders have invested enormously in these programs, this is one area in which trusted traders should actually "be trusted" and get adequate facilitation in return in the form of a waiver from the 6-digit HS code requirement.

3. Work with trade to improve the plain text descriptions

DG TAXUD could extend the list of unacceptable descriptions currently available on its website. Such a list would help to educate international shippers and improve the overall quality of written goods descriptions drastically – as we have experienced in other regions.

The Competitiveness Council recently recommended that “The EU customs risk management should be designed in such a way that a proper balance between actions to enhance the security of the supply chain and trade facilitation is maintained and unreasonable delays to legitimate trade are avoided”. In our opinion, the requirement of a 6-digit HS code in an ENS is not in balance with security and trade facilitation. This should therefore be reviewed as a matter of urgency.

While we certainly support the initiative to improve the EU customs risk management and ensure protection of the EU's citizens, businesses and territory, we still believe that it should be based on a workable and efficient system set up in close cooperation between customs and trade. It should be a balanced approach in order not to impact the smooth flow of the supply chain for legitimate trade, and it should not jeopardize the business model of certain industries. We therefore defend to maintain the current options foreseen in Annex 30a of Council regulation 2454/93 being an acceptable goods description or an HS code, combined with additional work on expanding the list of unacceptable goods descriptions