



November 22, 2022

Executive Assistant Commissioner AnnMarie Highsmith
Executive Assistant Commissioner Pete Flores
Executive Director Felicia Pullam
U.S. Customs and Border Protection
Department of Homeland Security
1300 Pennsylvania Avenue, NW
Washington, DC 20229

Re: 9808 Changes

Dear EAC Highsmith and EAC Flores,

On behalf of the American Association of Exporters and Importers (AAEI), we respectfully submit the reconsideration of CSMS 46189077 requirement to upload the HTS Chapter 9808 duty-free certificate in the Document Image System (DIS) for each Department of Defense import.

AAEI has been the national voice of the international trade community since 1921. Our unique role as an advocate for both importers and exporters reflect a broad membership base of manufacturers, distributors, retailers, and service providers, many of whom are small businesses offering diverse capabilities and technologies, including to the many agencies of the U.S. Government. With the promotion of fair and open trade policies and practices as our core value, AAEI addresses international trade, supply chain, export control, and Customs and Border Protection (CBP) issues from the legal, technical, and economic perspectives.

History of Issue

The Aerospace Industries Association's Customs Work Group collaborated with CBP to release CSMS 13-000356, directing the trade that the duty-free certificate will be submitted upon CBP's request. This request was prompted by the Feb 2014 Executive Order to [Streamline the Export/Import Process for America's Business](#), and followed a discussion with Defense Contract Management Agency (DCMA) to align to the single window. CBP modified the ACE Business Rules & Process Manual was updated in Oct 2018 stating, "The importer or authorized agent will submit the duty-free certificate received from DCMA-NY to CBP via DIS." CBP realized the discrepancy between CSMS 13-000356 and the ACE Business Rules & Process Manual and in February 2021, released CSMS 46189077 revoking CSMS 13-000356 and now is requiring the mandatory submission of Duty-Free Certificate for Department of Defense (DoD) procured importations under subheading 9808.00.30."

Burden on Trade

Brokers and the industry alike were operating differently – either uploading each duty-free certificate per customs line/entry or operating under "docs required" messaging. As a result of this disparity, and the new Feb 2021 requirement is to upload all duty-free certificates. This new requirement is causing customs brokers to now charge a fee for uploading certificates and increases overall entry processing time. Many times, there are multiple duty-free



certificates per Customs entry. The documents loaded are USG-generated documents, found in e-tools. The new requirement has caused a burden in time and cost to customs brokers and importers.

Current Process

DCMA's 9808 program has several layers of validation:

- USG Contract must contain 9808 clauses
- USG Contract's purchase orders must be eligible and require entitlement approval by the DCMA Officer via DCMA's e-tool system.
- After Customs entry declaration to CBP, a duty-free certificate request is made to DCMA's Customs Team via e-tools to obtain the duty-free certificate
- The duty-free certificate is provided to CBP within 6 months of date of entry (upon request or on demand). All evidence is maintained by Importers in support of DCMA audit and found in DCMA's e-tools system.

Industry Recommendation

AAEI's Aerospace and Defense (A&D) Subcommittee respectfully requests reconsideration of the direction to require certificate proof uploaded in DIS for each import.

Until ACE and DCMA's e-tools are linked, we propose the following recommendation:

- Reinstate CSMS 13-000356 making the DOD duty-free certificate "upon CBP's request."
- Continue to partner with DCMA to engage in automatic validation upon importation. This can be achieved by linking DCMA's e-tools system to CBP's ACE. The linking data would be the Customs Entry number.

In summary, AAEI respectfully submits the reconsideration of the direction to require certificate proof uploaded in DIS for each import. Please advise if you have any questions or require any clarification of our comments.

Sincerely,

Eugene C. Laney Jr.
President and CEO
American Association of Exporters and Importers