

# Harmonized Tariff Schedule (HTS) & Partner Government Agencies (PGAs)



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# Agenda

Why care about the tariff code and Partner Government Agencies (PGAs) - *together*?

PGA Flags in Action

Examples of PGAs

Adding Value



# Why Care about HTS and PGAs - *Together*?

Harmonized Tariff System (HTS) and Partner Government Agencies (PGAs) guide brokers and importers through entry requirements specific to the products

- Marking and labeling
- Testing
- Safety standards



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# How Do the HTS and PGAs Overlap?

- Create a common language for customs officials and PGAs to communicate about specific nature and classification
- Flag which shipments to inspect or regulate based on their specific requirements.
- Enable communication and coordination between customs authorities and PGAs



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# Hypothetical

- Art Supplies, Inc. (ASI) imports high quality paint brushes through the Port of LA – Long Beach.
- ASI has a trusted vendor in China, who is offering top-of-the-line paintbrushes for a very good bulk price.

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# Hypothetical (cont.)

- The HTS code triggered a flag in the automated Broker Interface (ABI).
- The broker overrode the flag and move forward with the import process.



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# Hypothetical (cont.)

- Purchase Orders are rolling in for the amazing Super-Kolinsky paintbrushes, and Ross Bob is excited. He expects to hit his sales goal for this year.
- But ... Ross receives an email from ASI's customer broker.
- A Customs officer has seized the goods at the Port.
- What might be going on?



# Hypothetical (cont.)

- The broker reaches out to the customs officer, who tells him the problem is with the U.S. Fish and Wildlife Service.
- Convention on International Trade in Endangered Species (CITES) requires Customs to hold this shipment for inspection.





# Hypothetical

- Customs explains that F&W suspects this is a shipment of special paint brushes containing the hair of the endangered Siberian weasel.



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# Hypothetical

- To resolve the flag, Ross Bob begins to coordinate with the broker, trade counsel, and F&W.
- He hires a testing company to test the brush hairs to determine if they are, in fact, weasel hair brushes.
- Fortunately, the test came back showing the hairs were synthetic.



# Harmonized Tariff Schedule (HTS)

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# Harmonized Tariff Schedule (HTS)

Customs uses HTS to determine:

- tariff rates,
- quotas,
- restrictions, and other trade-related measures applied to imports and exports.



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# General Rules of Interpretation (GRIs)

- GRIs provide guidance on how to interpret the HTS and ensure **consistent** classification across different countries and customs authorities.
- Be aware of Explanatory Notes



# General Rules of Interpretation

	Description
GR1	Prescribes how to classify products at the 4-digit Heading level, based on the wording of the headings and relative HS Section and Chapter Notes.
GR2	Prescribes how to classify both incomplete and unassembled goods, mixtures and combinations of goods.
GR3	Prescribes how to classify products that are, prima facie, classifiable under two different HS headings.
GR4	Prescribes how to classify products that cannot be classified according to GRI's 1, 2, and 3.
GR5	Prescribes how to classify packaging.
GR6	Prescribes how to classify products at the 6-digit subheading level, based on the wording of the subheadings and the relative HS Section and Chapter Notes.





# Case Study (October 20, 2020) H304957

- <https://rulings.cbp.gov/ruling/H304957>
- Protest under 19 U.S.C. § 1514(a)(2)
  - Decision on classification of e-cigarette liquids



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# Case Study (October 20, 2020)

## H304957

- Merchandise subject to protest and AFR
- “FA0048 Cookie,” “FA0595 7 Leaves Ultimate,” “FA0058 Coconut,” “FA0483 Lime Tahiti Distilled,” and “FA0577 Lime Tahiti CP” flavoring liquids
- In bulk plastic containers of 10kg, 5kg, and 1kg sizes



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# Case Study (Cont'd) H304957

- Application for Further Review (AFR)
- Protest No. 0901-18-100238, dated October 17, 2018,
- Port of Buffalo
- on behalf of Flavour Art North America Inc. (“Protestant”)



# Case Study (Cont'd)

- 2018 HTSUS headings under consideration.

**3302** Mixtures of odoriferous substances and mixtures (including alcoholic solutions) with a basis of one or more of these substances, of a kind used as raw materials in industry; other preparations based on odoriferous substances, of a kind used for the manufacture of beverages

**3824** Prepared binders for foundry molds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included



# Case Study (Cont'd)

*Why did it matter  
whether the e-cigarette liquids were under  
HTS 3302 or 3824?*



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# Case Study (Cont'd)

- CBP applied General Rules of Interpretation (GRIs )
- Classification of the subject merchandise in heading 3824 is appropriate when there is no tariff category that covers the merchandise more specifically.
- CBP agreed with protestant: subject merchandise is more specifically covered by heading 3302.



# What to Do if HTS Triggers a PGA Flag

1. Review	2. Communicate	3. Coordinate	4. Fulfill	5. Resolve
Review the flag	Broker - communicate with the importer	Coordinate with the relevant PGA	Fulfill PGA requirements  Or protest  Can show CBP why	Resolve the flag



# DOT Flags

Flag	Meaning
DT1	DOT/National Highway Traffic Safety Administration HS-7 data may be required
DT2	DOT/National Highway Traffic Safety Administration HS-7 data is required



# EPA Flags

Flag	Meaning
EP1	Ozone Depleting Substances specific data may be required
EP2	Ozone Depleting Substances specific data is required
EP3	Vehicle and Engines specific data may be required
EP4	Vehicle and Engines specific data is required
EP5	Pesticides specific data may be required
EP6	Pesticides specific data is required
EP7	Toxic Substances Control Act specific data may be required
EP8	Toxic Substances Control Act specific data is required



# Example: HTS code that May trigger DOT **and** EPA flags

HTS Code	PGA Code	PGA Flag Description
8706.00.1540 ( <i>Chassis Fitted with Engines for Vehicles</i> )	DT2EP3	Vehicle and Engines specific data may be required.





# FDA Flags

Flag	Meaning	Example
FD1	FDA data may be required 801(a)	Certain chemicals used in manufacturing drug products vs. industrial use
FD2	FDA data Required 801(a)	Medical devices, drugs, tobacco, and cosmetics
FD3	FDA Prior Notice Data may be required 801(m)	Salt used for flavoring food vs. salt used for treating road surfaces
FD4	FDA Prior Notice Data is required 801(m)	Fish and seafood, live food animals, dairy products, shell eggs, fruits, vegetables, bakery goods, snack foods, candy, etc.



# Example: HTS Code that may trigger FDA Flag

HTS Code	PGA Code	PGA Flag Description
0302.13.0032 ( <i>Pink “humpie” Salmon</i> )	FD4	FDA Prior Notice Data is required 801(m)



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# Animal and Plant Health Inspection Service (APHIS) Flags

Flag	Meaning
AQ1	APHIS data may be required
AQ2	APHIS data is required



# Example: HTS Code that May Trigger APHIS Flag

HTS Code	PGA Code	PGA Flag Description
0302.13.0032 <i>Plants, Seeds and Other material for planting</i>	AQ2	APHIS Data is required



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# More Partner Government Agencies (PGAs)

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# Under the US Department of Agriculture (USDA)

Some key agencies the USDA oversees:

- Animal and Plant Health Inspection Service (APHIS)
- Food Safety and Inspection Service (FSIS)
- Agriculture Marketing Service (AMS)



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# Animal and Plant Health Inspection Service (APHIS)



- Goal: Ensure imported agricultural products meet the Agency's entry requirements to **exclude pests and diseases of agriculture.**



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# Food Safety and Inspection Service (FSIS)

- Goal: Ensure U.S. imported meat, poultry, and egg products are safe, wholesome, unadulterated, and properly labeled and packaged.



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# Agriculture Marketing Service (AMS)



- Aim to create domestic and international marketing opportunities for US producers of food, fiber, and specialty crops.
- And ensure quality and availability of wholesome food for consumers.



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# USDA Case Example

## *American Meat Institute v. USDA (2014)*

- American Meat Institute challenged a new regulation implemented by the U.S. Department of Agriculture (USDA) that required meat and poultry producers to include **additional information on their labels** regarding country of origin.
- The American Meat Institute argued the regulation imposed unnecessary burdens on producers and violated First Amendment rights by compelling them to include certain information on their labels.
- Court ruled that the USDA regulation was a reasonable and lawful measure to protect consumers and promote transparency in the meat and poultry industry.



# Well-Known PGAs for Export Controls

Some of the key agencies the DOC oversees:

- Bureau of Industry and Security (BIS)
- United States Census Bureau (USCB)



**U.S. DEPARTMENT OF COMMERCE**



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# Bureau of Industry and Security (BIS)

- Under US Department of Commerce
- Responsible for advancing US national security, foreign policy, and economic objectives by regulating export goods and technologies that have potential military or dual-use applications.

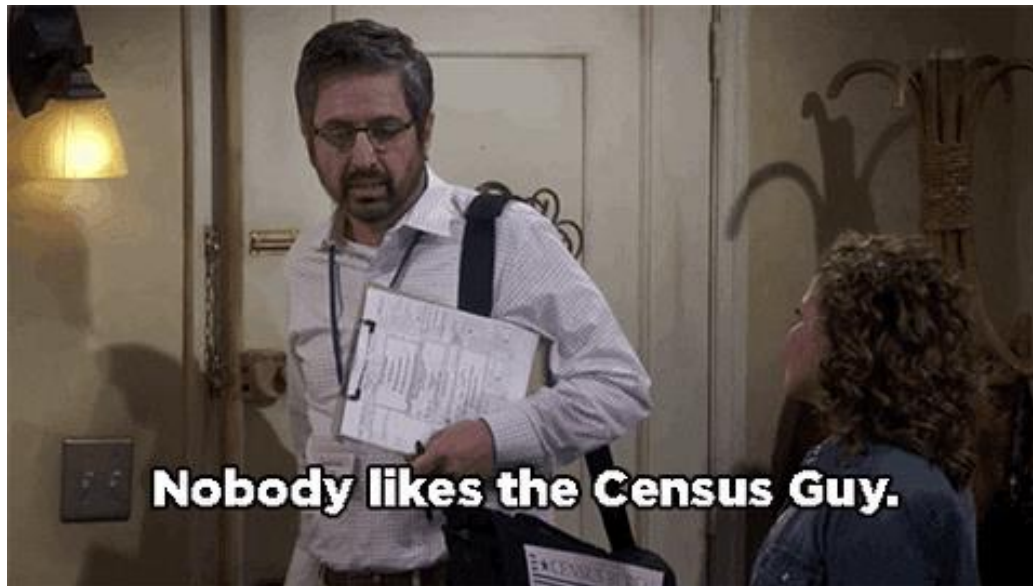
What is this!?!



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# United States Census Bureau (USCB)



- Collects and provides data for various purposes, e.g., economic analysis, policy-making, research, decision-making.
- Export statistics.



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# US Department of Transportation

A key agency the US Department of Transportation oversees:

- National Highway Traffic Safety Administration (NHTSA)



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# National Highway Traffic Safety Administration (NHTSA)



- NHTSA ensures safety on the nation's roadways and highways.
- Before importing a vehicle, importers must make sure that the vehicle complies with all relevant safety standards set by the NHTSA.



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# PGAs under US Department of Justice

Some key agencies the DOJ oversees:

- Bureau of Alcohol, Tobacco, and Firearms (ATF)
- Drug Enforcement Administration (DEA)



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# Bureau of Alcohol, Tobacco, and Firearms (ATF)



- Goal to investigate and prevent federal offenses involving:
- unlawful use, manufacture, and possession of firearms and explosives;
- acts of arson and bombings; and
- illegal trafficking of alcohol and tobacco products.



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# Drug Enforcement Administration (DEA)



- Goal to prevent, detect, and investigate diversion of controlled pharmaceuticals and listed chemicals from legitimate sources
- Ensure adequate and uninterrupted supply for legitimate medical, commercial, and scientific needs.



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# PGAs under Department of Health and Human Services (HHS)

Key agencies oversees:

- Food and Drug Administration (FDA)
- Centers for Disease Control and Prevention (CDC)
- National Institutes of Health (NIH)



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# Food and Drug Administration (FDA)

- FDA conducts inspections, enforces regulations, monitors product safety, and responds to health threats.
- FDA works with CBP to inspect and regulate food, drugs, medical devices, and other products at port of entry.



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# Centers for Disease Control and Prevention (CDC)

- CDC is responsible for preventing and controlling the spread of diseases domestically and internationally.



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# National Institutes of Health (NIH)



- NIH conducts and supports medical research to enhance health, lengthen life, and reduce illness and disability.



# Hypothetical – PGA Flag for Rollers

- ABC company inc. is an industrial manufacturer that purchased 7 wheels.
- They want to import these wheels for several dollies to use around the warehouse.



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# Cont. Hypothetical

- The wheels were classified under 8716.90.5059.
- Since this classification also includes parts of vehicles subject to NHTSA, it triggers a flag when the broker enters the HTS code





# Cont. Hypothetical

- In this case, the vehicle and part are not subject to NHTSA.
- The code to state and clear the flag is **OEI1**.



# Adding Value with HTS and PGAs

- Who is in the best position to interpret PGAs?
- Where you can help:
  - Timing / delays
  - Administrative burden of additional requirements
  - Risk of penalties
  - Save company money if you legally resolve the flag



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# Any Questions?



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