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Report to the Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives

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CUSTOMS SERVICE MODERNIZATION

Impact of New Trade Compliance Strategy Needs to Be Assessed

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United States General Accounting Office
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General Government Division

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The Honorable Philip M. Crane
Chairman, Subcommittee on Trade
Committee on Ways and Means
House of Representatives

Dear Mr. Chairman:

To speed the processing of imports and improve compliance with trade laws, Congress enacted Title VI of the North American Free Trade Agreement Implementation Act on December 8, 1993.[1] The Customs Service refers to this legislation as the Customs Modernization and Informed Compliance Act or Mod Act. The Mod Act fundamentally altered the relationship between importers and Customs by shifting from Customs to the importer the legal responsibility for declaring the value, classification, and rate of duty applicable to merchandise being imported into the United States. Customs is responsible for determining the final classification and value of the merchandise. The Mod Act also gave Customs and importers a shared responsibility for ensuring compliance with trade laws. To implement these new responsibilities, Customs developed an informed compliance strategy.

You asked us to (1) assess the status of Customs' implementation of the informed compliance strategy and (2) determine whether trade compliance under the new program had improved. We addressed these two objectives for five key initiatives and actions under the informed compliance strategy:

- information programs: basic, and targeted to specific imported commodities;
- compliance measurement: a process of physical inspections of merchandise and/or entry documentation to determine the rate of compliance;
- compliance assessment: a mechanism by which Customs evaluates a company's internal control systems to ensure that they promote the filing of import paperwork that is in compliance with laws and regulations;

[1]Public Law 103-182.

- account management: Customs' approach to managing its work through accounts (importing companies) rather than individual import transactions; and

- Customs' responses to noncompliance by importers.

We performed our work at Customs headquarters in Washington, D.C., and at two ports of entry—Los Angeles/Long Beach, CA; and Seattle, WA. We also interviewed selected importers to obtain their views about Customs' efforts in implementing the informed compliance strategy. Appendix I more fully describes the methodology we followed in reviewing each of the key initiatives and actions. We performed our work between June 1998 and September 1999 in accordance with generally accepted government auditing standards.

Results in Brief

Compliance data suggest that the key initiatives and actions that make up Customs' informed compliance strategy have not yet produced the benefits that were expected. Trade compliance rates have remained static at about 81 percent, short of Customs' 90-percent goal. In addition, revenue collection rates have decreased from 99.37 percent in fiscal year 1995 to 98.35 percent in fiscal year 1998. This resulted in projected net revenue underpayments increasing from $135 million in fiscal year 1995 to $343 million in fiscal year 1998.

Among the reasons for these results may be that Customs has not implemented three of the key initiatives and actions to the extent or at the pace that it had expected. Two of the five—information programs and compliance measurement—are fully operational. However, compliance assessment, account management, and Customs' responses to noncompliant importers have been implemented but have not yet reached many of the intended importers.

In compliance assessment, Customs expected to complete assessments for 2,100 importers in 8 to 10 years at a rate of about 210 to 263 annually; however, it completed only 209 assessments from October 1, 1995, through March 31, 1999. In account management, Customs identified 7,405 importers as potential candidates for its account management program. From fiscal year 1995 through fiscal year 1999, Customs had assigned account managers to 604 importers. Customs has not determined the specific level of resources necessary to assign account managers to the pool of candidate importers; but believes that with current resources, it will not be able to assign account managers to all candidates in the pool.

In responding to noncompliant importers, Customs has had limited success in increasing compliance. Its efforts to raise compliance rates in selected industries led to an initial increase in the rates, followed by a decrease, and ended with the fiscal year 1998 compliance rates falling below Customs' goal. Its efforts to deal with about 45 importers that have the most serious ongoing compliance problems have included a variety of actions but have not included penalty enforcement actions, such as seizures or fines. Few of these importers have improved their compliance rates enough to meet Customs' 90-percent goal.

Customs cited the lack of sufficient staff resources as a major reason for shortfalls in implementing the compliance assessment and account management programs to the extent or at the pace intended. Customs also noted that as it implemented the compliance measurement system and introduced new analytical tools, staff have become more astute at finding noncompliance.

Although Customs has monitored and evaluated certain aspects of the key initiatives and actions, it has not evaluated, nor does it have a plan to evaluate, the impact on compliance of the overall informed compliance strategy. However, such an evaluation seems appropriate to address the concerns raised by our analysis of the impact of the compliance assessment initiative on the compliance rates for 59 importers. The overall improvement in these importers' compliance rates after compliance assessment was less than Customs expected. The limited extent or pace of implementation of some aspects of the strategy and our findings concerning compliance rates for the 59 importers raise fundamental questions about the informed compliance strategy. We make a recommendation to Customs to address these questions.

Background

Customs' mission is to (1) ensure that merchandise and persons entering and exiting the United States do so in compliance with U.S. laws and regulations and (2) collect revenue from international trade. Customs collected $22.1 billion in revenue at more than 300 ports of entry in fiscal year 1998. Customs performs its mission with a workforce of nearly 20,000 personnel at its headquarters, 20 Customs Management Centers, 20 investigative offices, 5 Strategic Trade Centers, and 301 ports of entry around the country.

Customs established a two-step procedure to process merchandise imported into the United States. During the first step, known as cargo release, Customs assumes direct control of the merchandise and uses an inspection process to verify that the cargo meets import requirements and

is properly and accurately documented. When Customs determines that these requirements have been met, the cargo is released. During the second step, referred to as entry summary, Customs selects for review some of the detailed paperwork that has been submitted by the importer. Customs subsequently liquidates the importation (completes the transaction) after determining that the appropriate import duty has been paid.

Although cargo release and entry summary are Customs' major programs for ensuring compliance with trade laws, its commercial fraud, fines, penalties, and forfeitures program is its major weapon against violators of these laws. Customs also assesses liquidated damages[2] when an importer does not comply with regulations. Civil monetary penalties, on the other hand, are assessed for violations, such as misclassification, knowingly falsifying the country of origin, and other fraudulent acts. Customs usually takes seizure actions when merchandise is illegal or not admissible to the United States.

Although Customs agents, inspectors, and import specialists assess penalties and make seizures, it is the Fines, Penalties, and Forfeitures offices that are responsible for administrative processing and tracking of all liquidated damages, penalty, and seizure cases. Customs has been performing these activities for many years, long before the Mod Act, and continues to perform them in addition to its informed compliance efforts.

For over 15 years, Customs has used its Automated Commercial System (ACS) to store and process import information and to manage import-related activities, such as collecting revenue and capturing trade statistics.[3] ACS allows Customs to identify, track, and control imported merchandise during cargo release and entry summary liquidation processing. It also allows Customs to retrieve import information whenever needed.

[2]Liquidated damages are monetary assessments made for breach of one or more conditions in bonds posted with Customs to ensure protection of the revenue or to guarantee compliance with laws and regulations administered by Customs.

[3]Customs is in the process of developing a replacement for ACS, called the Automated Commercial Environment (ACE).

The Customs Modernization and Informed Compliance Act

In the late 1980s, Customs recognized the need to overhaul, streamline, and update its automated data processing capabilities and reorient its business processes.[4] Customs also realized that it needed to work with the trade community and Congress to forge legislation for meaningful change. After several attempts, compromise legislation acceptable to Customs, Congress, and the trade community was developed. This legislation, the Customs Modernization and Informed Compliance Act or Mod Act, which allowed Customs to automate its processes incrementally and allowed Customs to be flexible and innovative in redesigning its business processes, became law on December 8, 1993, as Title VI of the North American Free Trade Agreement Implementation Act.

The Mod Act introduced two new concepts: informed compliance and shared responsibility. These concepts were premised on the theory that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needed to be fully and completely informed of its legal obligations. In addition, Customs was to effectively communicate its requirements to the trade community, and the people and businesses subject to those requirements were to conduct their regulated activities in conformance with U.S. laws and regulations. The trade community was to use reasonable care in meeting its responsibilities. According to Customs, there is a general consensus that a "black and white" definition of reasonable care is impossible because the concept of acting with reasonable care depends upon individual circumstances. In lieu of a definition, Customs has issued a checklist of measures for importers to use as guidance in meeting the reasonable care requirements.

Customs' Implementation of the Mod Act

Most import activity is attributable to a relatively small group of importers. In fiscal year 1998, Customs processed shipments with a total value of about $897 billion for more than 443,000 commercial importers. Only 1,000 of these importers, or less than 1 percent, accounted for about 60 percent of import value—a total of $538 billion. These percentages have remained fairly constant for several years, at least since fiscal year 1996. Customs determined that these top 1,000 importers are in a position to have a significant impact on trade compliance rates and introduced a "big player focus" towards trade compliance.

In addition to big players, Customs directed its trade compliance efforts toward primary focus industries (PFIs). Customs selected industries as

[4]We will not be discussing the automation aspects of the Mod Act in this report. ACE is addressed in our report entitled Customs Service Modernization: Serious Management and Technical Weaknesses Must Be Corrected (GAO/AIMD-99-41, Feb. 26, 1999). Customs' core business processes are trade compliance (imports), passenger processing, and outbound (exports).

PFIs if they were considered vital to U.S. national interest on the basis of a number of factors, including strategic importance, international trade agreements, health and safety, and economic concerns. For fiscal year 1998, Customs selected the following PFIs for trade compliance attention:

- Agricultural Products,
- Automotive,
- Communications,
- Critical Components (Bearings and Fasteners),
- Footwear,
- Production Equipment,
- Steel, and
- Textiles and Wearing Apparel.

In addition to focusing on big players and PFIs, Customs developed and implemented several key initiatives and actions as part of its informed compliance strategy, including (1) information programs, (2) compliance measurement, (3) compliance assessment, (4) account management, and (5) responses to noncompliance. The remainder of this report will discuss these five initiatives and actions, Customs' implementation of them, and their results.

Customs Provided Informed Compliance Information to Importers

Providing information to importers to inform them about trade laws, regulations, and Customs policies and procedures is not new; it has been going on for years. However, under its informed compliance strategy, developed as a result of the Mod Act, Customs enhanced its basic information program and developed a new targeted information program to provide the importing community with relevant information concerning its responsibilities and rights under Customs laws and regulations.

Through these two programs, Customs provided importers with extensive information using the Internet, an electronic bulletin board, seminars, and informed compliance publications on such topics as value, classification, reasonable care, and recordkeeping requirements. Ports of entry around the country also provided informed compliance information to their local importing communities. Limited feedback that we obtained from several

major importers indicated overall satisfaction with Customs' informed compliance information efforts.

Basic Information Program

According to the Commissioner of Customs' May 1996 memorandum for trade community members on informed compliance strategy, the basic information program was intended for all parties involved in importing. Using the program, Customs would

- continue to issue rulings on the proper classification of imported merchandise;
- give the trade community an opportunity to comment on draft regulatory documents by posting the documents on the Customs Electronic Bulletin Board (CEBB);
- establish an educational outreach program to educate the trade community on Mod Act responsibilities;
- establish a Customs Web server for dissemination of Customs information via the Internet;
- increase the knowledge of Customs staff through internal and external Customs seminars; and
- consider making information, such as Customs Bulletins, notices, and directives, available via CD-ROM.

In accordance with its informed compliance strategy, we found that in calendar year 1998, Customs had issued over 13,000 rulings, posted 7 draft regulatory documents to the CEBB for public comment, and developed 13 informed compliance publications. In addition, in fiscal year 1998, Customs conducted over 130 internal and external educational seminars.

Customs established its Web site on the Internet in August 1996, recording 1.5 million visits to the site in its initial year. Customs chose not to pursue distribution of such information as Customs Bulletins, notices, directives, and other informed compliance materials by CD-ROM because the information became accessible once the Web site was established.

The CEBB was established in January 1991 to provide importers access to current, relevant Customs operations and trade information. Enhanced for informed compliance purposes, news releases, rulings, and about 25 other

subject areas can be accessed through the CEBB. Almost all information on the CEBB can also be accessed through the Customs Web site.

In March 1999, we accessed CEBB files through the Web site and found that one subject area, Mod Act Information, contained 70 information files, including draft and final regulations, Customs' informed compliance strategy, and numerous informed compliance publications. These files included, for example, informed compliance publications that discussed reasonable care and recordkeeping requirements. According to Customs, the CEBB will eventually be phased out and all data integrated into the Web site.

The Customs Web site contains an extensive array of information, including regulations and rulings, merchandise tariff classification and entry procedures, marking requirements, and informed compliance strategy and publications. Web page selections include such topics as "About U.S. Customs" and "Importing and Exporting." As of April 1999, over 10.6 million visits to Customs' Web site had been recorded since it was established in August 1996.

As part of its efforts to educate the importing community on its responsibilities, Customs developed an informed compliance publication series. The publication series entitled "What Every Member of the Trade Community Should Know About:***" addressed trade issues, such as merchandise classification, customs value, and reasonable care. Thirty-four trade topics have been covered in this series since its inception in 1996. Customs received positive feedback from the trade community about this series and its applicability toward understanding informed compliance responsibilities.

Targeted Information Program

According to the Commissioner's May 1996 memorandum, the targeted information program was designed to provide information and assistance to the importers beyond that provided through the basic program. The targeted information program was primarily aimed at industries and certain trade segments that required special efforts to deal with compliance issues. The targeted information programs used a variety of communication methods, including

- development and distribution of industry- and/or commodity-specific publications,
- seminars and industry association sponsored meetings,

- importer visits, and
- videotapes.

Customs has produced a number of commodity- and industry-specific publications under its "What Every Member of the Trade Community Should Know About:***" series. In fiscal year 1998, such publications as Ribbons & Trimmings, Footwear, and Lamps, Lighting and Candle Holders were issued as guides to help with classification of these commodities.

Customs also produced newsletters and other publications for specific industries. One newsletter entitled Production Equipment Trade Educator focused on classification and valuation of production equipment. Another was The Auto Book: A Practical Guide to Classification of Vehicles, Parts and Accessories under the Harmonized Tariff Schedule, geared, of course, to the auto industry.

In addition, Customs officials made 69 presentations to the trade community across the country on specific topics, such as bearings, production equipment, and wood products. Presentations were made at industry association meetings, ports of entry, and trade conferences. Customs did not request formal feedback from the trade community as a means of assessing satisfaction with the information presented at its seminars. However, Customs officials told us that they had received letters from the trade community that were complimentary of the presentations and the usefulness of the information provided.

Furthermore, Customs officials visited many importers to discuss new programs and initiatives and to provide instructions on how to properly classify imported merchandise. Customs did not compile information on the number of visits made to importers. Customs also issued three videos on topics considered of high interest to the trade community: Account Management, Informed Compliance, and Textile Rules of Origin.

Ports of Entry Informed Compliance Activities

According to the Commissioner's May 1996 memorandum, ports of entry were also to develop and implement informed compliance activities to ensure that the local trade community was informed of trade laws and regulations and Customs policies and procedures.

We visited two ports of entry, Seattle, WA; and Los Angeles, CA, to gain an understanding of local informed compliance activities. The Seattle port of entry

- published a trade newsletter,
- held monthly meetings to discuss issues of concern to the importing community,
- held port-sponsored seminars and workshops several times a year,
- held open house events and tours to meet and greet trade representatives, and
- visited importers to promote informed compliance activities.

The Port of Los Angeles (Los Angeles Airport and the Los Angeles/Long Beach Seaport)

- issued public bulletins to notify the trade community of activities and administrative changes,
- held monthly and quarterly meetings with importing trade associations,
- held port-sponsored seminars, and
- held open house events that included a tour of the airport Customs facility.

Customs officials told us that although specific documentation was not compiled, ports of entry across the country have been involved in informed compliance activities. The officials stated that some ports, however, were more proactive than others and had organized numerous activities; others had few activities.

Selected Importers Generally Satisfied With Customs' Informed Compliance Information Programs

As part of our review, we asked for the views of nine importers[5] regarding the basic and targeted information programs. We asked the importers a series of questions, including whether (1) they used the Customs Web site, (2) Customs seminars they attended were informative, and (3) they felt that Customs was doing a good job providing information to assist them to voluntarily comply with Customs laws and regulations.

All nine importers we interviewed responded that they thought the Web site was very useful as well as a great source of information. The importers said that they checked the Web site frequently for relevant, current information. Some importers also commented, however, that although the

[5]Appendix I provides information on how the nine importers interviewed by GAO were selected.

Web site provides importers greater access to Customs information, there is a great deal of information to sort through to find what may be relevant to a company. Many importers also stated that Customs' presentations at various seminars were generally informative. A few of the importers suggested that Customs act more quickly in holding seminars, once new changes or new programs were introduced. Several of the importers we interviewed commented that the publications were informative and provided a good source of basic level information. Overall, importers we interviewed said Customs' efforts to provide the trade community with adequate and timely information were generally sufficient, and its efforts to keep the trade community informed had improved since the Mod Act.

Compliance Measurement Results Indicate That Trade Compliance and Revenue Collection Goals Have Not Been Met

In response to Mod Act requirements, Customs began in fiscal year 1995 to measure and report to Congress on the importing community's level of compliance with trade laws and regulations. In fiscal year 1996, Customs established goals to attain overall trade compliance rates of 90 percent and PFI compliance rates of 95 percent by fiscal year 1999. Overall trade compliance rates, however, have remained static at about 81 percent from fiscal year 1995 through fiscal year 1998. PFI rates have also remained static at nearly 84 percent from fiscal year 1996 through fiscal year 1998. Customs recently extended both goals out to fiscal year 2004.

Customs also established a goal to collect at least 99 percent of revenue due, which was last achieved in fiscal year 1996. Projected revenue collection rates have decreased from 99.37 percent in fiscal year 1995 to 98.35 percent in fiscal year 1998. This amounts to projected net revenue underpayments increasing from $135 million in fiscal year 1995 to $343 million in fiscal year 1998.

Description of Compliance Measurement

Customs describes compliance measurement as a process of physical inspections of merchandise and/or Customs entry summary[6] documentation reviews to determine the compliance rate of transactions. Compliance measurement is a statistically valid method[7] of determining compliance by means of examinations that are based on Harmonized Tariff

[6]Merchandise arriving at a U.S. port must be "entered" with Customs unless specifically exempted. "Entry" refers to the required documentation filed with Customs to secure the release of imported cargo from Customs' custody.

[7]We performed a limited review of Customs' statistical sampling methodologies used in fiscal years 1995 through 1998. From our discussions with Customs statisticians and an analysis of the sampling methodologies, we are satisfied that the methodologies are reasonable, and the estimates of compliance rates based on the methodologies appear statistically valid as reported.

Schedule[8] classifications. Compliance measurement results enable Customs to assess the performance of major industries, including PFIs, major importers, and its own performance concerning revenue collection and enforcement of trade laws. According to Customs, compliance measurement also provides the basis for working with importers in improving their compliance and in developing and implementing Customs' strategies to improve compliance.

Customs Modifications to the Compliance Measurement Program

In response to Mod Act requirements, Customs established the compliance measurement program on April 7, 1994. During fiscal year 1994, Customs trained port personnel responsible for conducting cargo inspections and document reviews and measured the compliance of 15 industries in preparation for overall program implementation. In fiscal year 1995, Customs conducted the first national compliance measurement of imports across the entire spectrum of the Harmonized Tariff Schedule to establish a compliance baseline for use in comparisons with future measurement and projections.

Customs began to focus compliance measurement efforts on PFIs during fiscal year 1996 to determine compliance rates for specific industries importing automobiles, bearings, and textiles, among other commodities and merchandise; and to direct informed compliance efforts, such as seminars, toward targeted industries experiencing low trade compliance. During fiscal year 1997, Customs linked compliance assessment results with compliance measurement results to improve its capability to measure and identify noncompliance. This improvement was designed to allow Customs to perform a minimum number of inspections on compliant importers and an increased number of inspections on noncompliant importers.

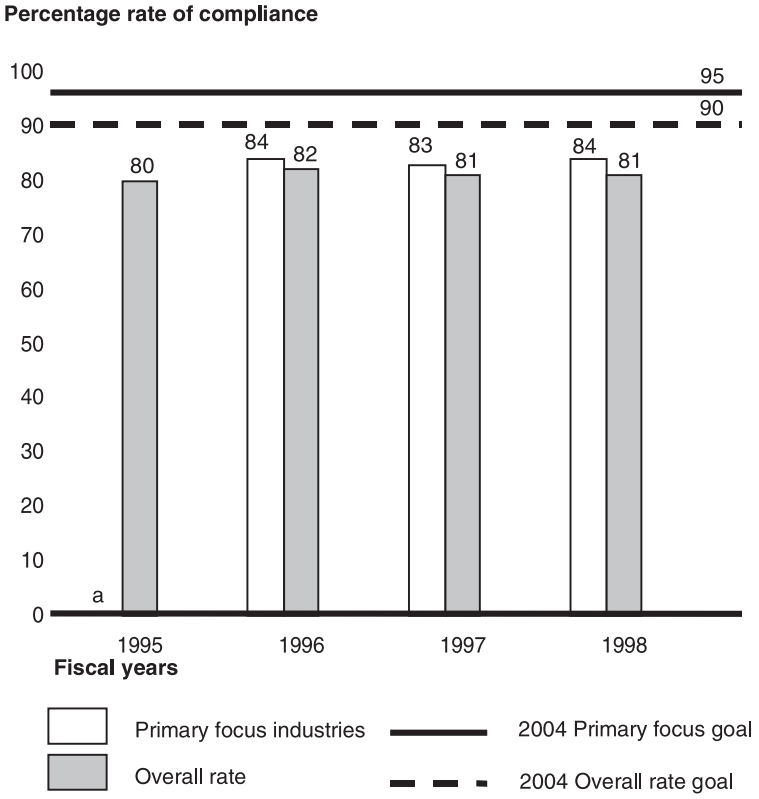
In its fiscal year 1998 Trade Compliance Measurement Report, Customs introduced the concept of significance into the compliance measurement process. Customs applied criteria to violations discovered during compliance measurement examinations and document reviews to differentiate between discrepancies, such as clerical errors, and more egregious or willful violations, including narcotics smuggling and intellectual property rights infringement. Measuring a violation's significance allows Customs to focus its resources on the most significant trade violations.

[8]The Harmonized Tariff Schedule is a 97-chapter catalogue of 1,200 4-digit tariff numbers designed to enable importers, customs brokers, customs officers, and other interested persons to determine the classification of and rates of duty applicable to imported articles.

Compliance Rates Remain Static

Since Customs started measuring and reporting compliance, overall and PFI compliance rates have remained static from fiscal year 1995 through fiscal year 1998 (see fig. 1). Customs officials attributed the static compliance rates, in part, to Customs' increasing ability to detect noncompliance by conducting more thorough and uniform cargo examinations and document reviews and using sophisticated analytical tools. Customs officials explained that the more familiar inspectors and import specialists became with cargo inspected for compliance measurement, the more likely they were to detect discrepancies. Customs also credited the use of sophisticated analytical tools to analyze compliance measurement data, develop importer compliance profiles, and identify potential trends of noncompliance. According to Customs officials, these analytical tools greatly enhanced Customs' ability to detect and react to trends indicating potential noncompliance that may otherwise have remained undetected.

Figure 1: Compliance Rates Have Remained Static Between Fiscal Years 1995 and 1998



[a]Customs did not assess compliance rates for PFIs in FY 95.

Sources: U.S. Customs Service Commercial Compliance Measurement Report, fiscal year 1995 and U.S. Customs Service Trade Compliance Measurement Report, fiscal years 1996-1998.

The conclusions of a Customs analysis of the auto/truck parts industry, however, may provide another explanation for static compliance rates. The analysis indicated that importers too small to justify the level of attention Customs affords large importers—for example, providing account managers or compliance assessments—had the lowest aggregate compliance rate and generated a disproportionate share of compliance discrepancies within the industry. The analysis concluded that unless the aggregate compliance rate for small companies improves dramatically, auto/truck parts industry compliance may never rise above 89 percent even if the compliance rate for large companies rises to 95 percent. It also concluded that Customs must pursue the challenge of raising small company compliance within the auto/truck parts industry.

In addition, Customs acknowledged, in its fiscal years 1997 and 1998 Accountability Reports, that its goal of achieving 90 percent overall compliance and 95 percent for PFIs by 1999 as originally planned, and later adjusted to the year 2000, was overly optimistic. According to its Fiscal Year 2000 President's Budget Justification Materials, Customs anticipates achieving both goals by fiscal year 2004 but acknowledged that further adjustments may be needed as more experience is gained. Customs officials stated that these goals are also dependent on budgetary resources and automation funding.

Applying Significance Criteria Changes Compliance Rate

Customs reported an overall compliance rate and a significance compliance rate in its 1998 Trade Compliance Measurement Report. The 89 percent significance compliance rate was higher than the 81 percent overall compliance rate. Customs stated that for compliance measurement, a discrepancy is indicated whenever any of the diverse trade laws, regulations, and agreements are violated. This is, in effect, a "letter-of-the-law" definition of discrepancy that has been used since the beginning of compliance measurement.

In an attempt to increase the relevance of compliance measurement, however, Customs established a task force in 1997 to review the discrepancy definitions and apply a standard for significance. The task force identified criteria to distinguish major discrepancies involving illegal narcotics, intellectual property rights, and forced labor violations, among others, which Customs always considers significant, from nonmajor discrepancies such as clerical errors. Customs applied its standard for significance to the compliance measurement process to identify and

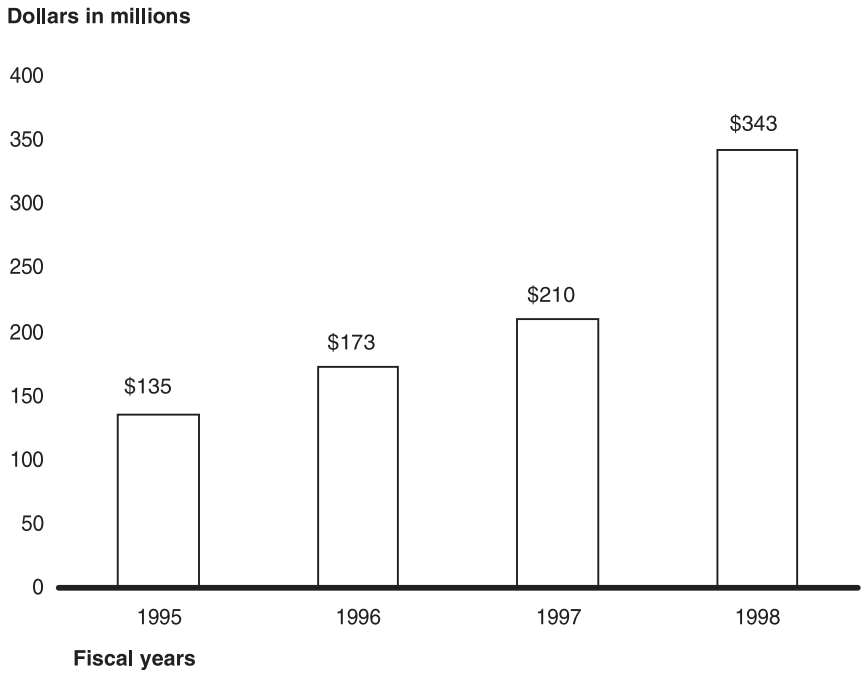
address major compliance problems before considering less important or inconsequential issues.

Customs officials told us that they intend to continue compiling and reporting both overall and significance compliance rates and would not limit their compliance measurement program to one or the other. The officials did, however, expect to have an internal dialogue about the significance discrepancy definition applied to compliance rates and its place and use in compliance measurement.

Projected Revenue Collection Rates Have Decreased, and Projected Net Revenue Underpayments Have Increased

Although compliance rates have remained static from fiscal years 1995 to 1998, projected revenue collection rates have decreased for the same period, from 99.37 percent in fiscal year 1995 to 98.35 percent in fiscal year 1998. This decrease amounted to projected net revenue underpayments increasing from $135 million in fiscal year 1995 to $343 million in fiscal year 1998 (see fig. 2).

Figure 2: Projected Net Revenue Underpayments Have Increased



Sources: U.S. Customs Service 1996 Annual Report and U.S. Customs Service Accountability Report, fiscal year 1998.

The projected revenue collection rates decreased and the projected net revenue underpayments increased while total gross revenue collections dropped from $23.1 billion to $22.1 billion during this time period. In its fiscal year 1997 Accountability Report, Customs attributes the increase in projected net revenue underpayments to refinements in accumulating and projecting revenue data. Customs officials said that they were trying to reverse the situation but did not provide information about any steps that they were taking.

Compliance Assessments Behind Schedule and Impact Not Yet Evaluated

A compliance assessment is a review of an importing company's Customs systems and procedures, including internal controls, to ensure that the imports are in compliance with U.S. laws and regulations. The goal is to ensure maximum compliance.

In fiscal year 1997, Customs estimated that it would take 8 to 10 years to complete compliance assessments at the top 2,100 importers based on the value of imports. However, because Customs completed only 209 compliance assessments from fiscal year 1996 through March 31, 1999, it appears unlikely that Customs will be able to achieve that goal. To expedite the lengthy compliance assessment process, Customs implemented a revised approach in July 1999, but it is too early to determine the impact of the revisions on Customs' ability to meet its goal.

Customs began conducting follow-up reviews at importers who had received compliance assessments in fiscal year 1998. The reviews were intended to determine whether importers had taken corrective action to improve their internal controls over imports and had improved compliance. However, Customs has not yet developed a methodology for evaluating the overall impact of compliance assessments on importer compliance with U.S. laws and regulations.

Our analysis of 59 importers that had compliance assessments completed by the end of fiscal year 1997 raised some concerns about the impact of compliance assessments on overall compliance rates. In many cases, the compliance rates for the 59 individual importers were based on few examinations and were therefore not statistically valid, but they serve as indicators that compliance assessments may not be maximizing compliance at many importers that have received them. This analysis showed that from fiscal year 1996 to fiscal year 1998, compliance worsened for 20, improved for 27, and stayed the same for 4. Eight importers already were in full compliance, and they stayed that way.

Overview of Compliance Assessment Process

For many years, Customs has conducted regulatory audits of importer records to verify compliance with U.S. laws and regulations. In October 1995, Customs implemented a different kind of audit—compliance assessments. The primary focus of regulatory audits is to identify lost revenue and the primary focus of compliance assessments is to work with importers to ensure that their imports comply with U.S. laws and regulations. The Regulatory Audit Division is responsible for performing compliance assessments with assistance from import specialists, account managers (if assigned), and other staff, as needed.

Compliance assessments include evaluating an importer's operating practices and internal controls supporting its Customs-related activities. Assessments also include statistical sampling of entry transactions from the importer's previous fiscal year. Each assessment involves a minimum review of compliance in five trade areas (classification, value, quantity, special duty provisions, and recordkeeping).[9] The findings of compliance assessments are to be used to determine the frequency of future compliance measurement examinations. Companies are categorized as low, moderate, or high risk on the basis of compliance assessment results. According to Customs, poor compliance would mean higher risk and therefore more examinations.

When a compliance assessment indicates the need for corrective action to ensure compliance, the importer is to be asked to prepare and implement a Compliance Improvement Plan. These plans are to outline the specific deficiencies that the importer needs to correct, how the operating practices and internal controls will be changed, and the time frame for taking corrective action. According to Customs, follow-up reviews are conducted to (1) verify that corrective action was completed and compliance improved and (2) determine whether the risk category can be changed and the number of examinations reduced.

Customs Behind Schedule for Completing Compliance Assessments

Customs targeted the top 1,000 importers on the basis of the value of imports and the top 250 importers by value in each of the 8 PFIs to receive compliance assessments; about 2,100 importers altogether. As of March 31, 1999, Customs had completed 209 compliance assessments (see table 1), and another 164 had been initiated.

[9]Transactions are checked to ensure that merchandise was appropriately classified by type using the U.S. harmonized tariff system; and the entered value includes the purchase price, packing costs, and other costs as defined by Customs. Quantity is checked to ensure that the quantity entered agrees with the amount in the importer's inventory or receiving records. Special duty provisions include checking compliance with trade agreements, such as the North American Free Trade Agreement when the annual import value is less than $10 million. Recordkeeping is tested to make sure the importer maintains and can produce records in accordance with U.S. laws and regulations.

Table 1: Compliance Assessments Completed as of March 31, 1999, by Primary Focus Industry

Industry	Number of compliance assessments completed
PFI	
Agriculture	6
Automotive	41
Critical components (bearings and fasteners)	16
Communications	36
Footwear	13
Production equipment	19
Steel	14
Textiles and wearing apparel	47
Non-PFI	17
Totals	**209**

Source: GAO analysis of data provided by Customs' Regulatory Audit Division.

In fiscal year 1997 Customs estimated that it would take 8 to 10 years to complete the 2,100 compliance assessments with the existing staff and a completion rate of about 210 to 263 compliance assessments annually. However, Customs has not been able to complete nearly that number of assessments annually; 15 were completed in fiscal year 1996, 61 were completed in fiscal year 1997, and 92 were completed in fiscal year 1998.

In both the fiscal year 1999 and 2000 budget submissions, Customs requested 100 additional auditors to perform compliance assessments. According to the narrative justifying these requests, 250 additional auditors over the current 400 were needed to put compliance assessments on a periodic cycle that will allow them to conduct assessments at targeted importers once every 5 years. Customs requested 100 new auditors because that is the optimum number that Customs believes it can train and assimilate into the program at one time. The Treasury Department approved the fiscal year 1999 budget request for 100 additional auditors, but the Office of Management and Budget did not. The Treasury Department did not approve the fiscal year 2000 budget request. Customs was planning to include 100 additional auditors to perform compliance assessments in the fiscal year 2001 budget request.

Compliance Assessments Have Been Lengthy and Time Consuming

The Director of the Regulatory Audit Division told us that action has been taken to expedite the compliance assessment process because these assessments have been lengthy and time consuming. For the 168 compliance assessments completed by September 30,1998, the median number of days elapsed was 428, and the median number of staff hours expended was 1,698.[10] The Director told us that the staff hours were

[10]Calculation of median calendar days and staff hours was based on 167 compliance assessments because we excluded 1 assessment that was suspended and later restarted.

understated, however, because they include only Regulatory Audit staff hours. Total compliance assessment hours are unknown because Customs does not track hours spent by staff in other offices, such as Strategic Trade Center staff, who prepare importer profiles prior to the assessments, and import specialists.

Customs had implemented three initiatives to expedite the compliance assessment process: establishing standards and guidelines for the length of compliance assessments, reducing the number of entries reviewed during an assessment, and establishing an importer-assisted assessment methodology designed to perform assessments more rapidly. According to the Regulatory Audit Division Director, the preliminary results of these initiatives suggest the potential to shorten the compliance assessment process, but further experience is needed to know just how much impact they will have.

Calendar Day and Staff Hour Standards Established

In November 1997, the Regulatory Audit Division established a 9-month (270-day) target for completing compliance assessments from the entrance conference with the importer through completion of a compliance assessment report. Fourteen of 18 compliance assessments started since the new policy was issued and completed by March 31,1999, were completed in less than 270 days. The median number of calendar days elapsed for the 14 assessments was 220. The median number of days elapsed for the other four assessments was 291 days.

The Regulatory Audit Division also developed staff hour guidelines for performing compliance assessments. The guidelines state that staff hours expended should vary depending on the scope of the compliance assessment, whether a compliance improvement plan is needed, and other factors. The Regulatory Audit Division Director told us that he uses 1,500 hours as a general rule of thumb for planning staff resource utilization. Using 1,500 hours as the criterion for the number of staff hours expended, we found that 16 of 18 compliance assessments initiated and completed since the new policy was issued required less than 1,500 hours; and the median number of staff hours expended was 1,024 hours. The other two assessments took 1,668 and 2,883 staff hours to complete, respectively.

Reduced Number of Entries to be Reviewed

In July 1999, the Regulatory Audit Division reduced the maximum sample size of entries to be reviewed from 220 to 100 for most trade areas. Prior to adopting the reduced sample size, Customs tested using the smaller sample size at five importers but did not perform a detailed analysis of the impact on staff hours and calendar days. Customs prepared a brief summary, however, which indicated that smaller samples provided

sufficient coverage, reduced workload for both Customs and the importer, and reduced the time needed to perform compliance assessments.

Importers Allowed to Assist in Performing Compliance Assessments

A process called Controlled Assessment Methodology (CAM) was developed to allow importers to voluntarily perform much of the compliance assessment with verification by Customs auditors. CAM has the same test and sampling parameters as a standard compliance assessment, except that the importer is to provide staff to assist in the assessment. Customs prepares a written work plan that includes applicable audit steps and time frames for the importer to perform. When the work is completed, Customs verifies its accuracy.

The Regulatory Audit Division expects that some importers will be willing to choose this option for several reasons, including (1) a less intrusive compliance assessment process; (2) improved importer understanding of their own operations; and (3) elimination of duplicate effort, which frequently occurs when importers self-assess their efforts in advance of the Customs assessment without Customs guidance.

As of April 19, 1999, compliance assessments had been completed at 13 importers that elected to participate in CAM. According to the Regulatory Audit Division Director, early experience with CAM suggests that it does expedite the completion of compliance assessments, and its impact on Customs staff resources and length of compliance assessments will need to be monitored.

Follow-up Reviews to Determine Compliance Assessment Benefits Are Being Scheduled

The objective of a follow-up review is to determine if corrective actions noted in the importer's compliance improvement plan were implemented and whether they were effective in correcting deficiencies. The Regulatory Audit Division Director stated that follow-up reviews are the critical final step of the compliance assessment process and should demonstrate whether compliance assessments are improving importer operating practices, internal controls, and compliance rates.

In fiscal year 1998 Customs developed guidance for performing follow-up reviews and performed a limited number. Customs performed seven follow-up reviews in fiscal year 1998, including reviews of three importers originally categorized as high risk and four categorized as moderate risk. The reviews resulted in six importers being recategorized to low risk and one recategorized from moderate risk to high risk. For the importer recategorized from moderate to high risk, Customs found that, among other things, the importer had not fully implemented corrective actions and did not correctly value imported merchandise.

Follow-up reviews were included in the annual audit planning process for the first time for fiscal year 1999. As of July 19, 1999, Customs estimated that it would start and/or complete at least 41 follow-up reviews by the end of fiscal year 1999.

Overall Impact of Compliance Assessments Not Yet Evaluated

Improved compliance and increased revenue collection were identified by the Regulatory Audit Division as performance measures for the compliance assessment initiative. However, the Director told us that although these performance measures are important, because of other work priorities and limited staffing, the impact of compliance assessments on improving importer compliance with U.S. import laws and regulations and increasing revenue collections had not been determined as of the end of our fieldwork in July 1999.

Our Analysis Raises Concerns About Impact of Compliance Assessments on Importer Compliance

In the absence of a Customs evaluation of the impact that compliance assessments have on importers' compliance with U.S. laws and regulations, we analyzed compliance rates for all 59 importers[11] that had compliance assessments completed by September 30, 1997, and had received compliance measurement exams in both fiscal year 1996 and fiscal year 1998.

Although the number of compliance measurement examinations that these importers received (see app. II) was usually not sufficient to calculate statistically valid compliance rates,[12] the compliance rates serve as an indicator about whether or not overall compliance has improved. Our analysis of all 59 importers showed that compliance rates worsened for 20, improved for 27, and stayed the same for 4. Eight importers already were in full compliance (100 percent compliance) in fiscal year 1996 and stayed that way.

[11]One additional importer that had received a compliance assessment by September 30, 1997, was not included in our analysis because Customs erroneously provided data on another importer with a similar name.

[12]A compliance rate is statistically valid only when the number of items sampled is large enough to provide an estimate that, with a high level of confidence, approximates the results from reviewing all items with a specified level of precision. According to a Customs official, a minimum of 30 compliance measurement exams would be needed to calculate a statistically valid compliance rate that would be representative of all imports for an importer.

Table 2: Changes to Compliance Rates From FY 1996 to FY 1998 for 59 Importers With Compliance Assessments Completed by September 30, 1997

Change[a]	Total
Down	20 of 59
Up	27 of 59
Stayed the same	4 of 59
Full compliance	8 of 59
Total	**59**

[a]The number of exams that make up the underlying data for this table was in most cases not sufficient to calculate statistically valid compliance rates. Where increase or decrease was less than 1 percent, we considered the compliance rate to have remained the same.

Source: GAO analysis of data provided by Customs' Analytical Development Division.

The Regulatory Audit Division Director agreed that this analysis, although not based on statistically valid compliance rates, does have some usefulness for evaluating compliance. He further indicated that the Regulatory Audit Division had been giving priority to other activities, such as revising the compliance assessment process, and that he plans to begin focusing on developing a methodology to measure the impact of compliance assessments. A compliance rate analysis similar to the one we performed would be one piece of this methodology, according to the Director.

Most Selected Importers Cited Benefits From Compliance Assessment

We interviewed nine importers[13] to obtain their views regarding the advantages and disadvantages of the compliance assessment process and to determine whether they had any suggestions for improvement. Eight of the nine importers felt that their import operations benefited as a result of the compliance assessment. Seven importers indicated that the compliance assessment provided an independent review of import operations that identified both strengths and weaknesses in the internal controls, as well as recommendations on how to correct the weaknesses. Two importers indicated that after the compliance assessment, they had more confidence in the quality of their systems.

In addition, two importers indicated that they had used their systems, after making any corrections on the basis of the compliance assessment, as the model for import operations at other company divisions or locations. Three other importers said they made organizational changes or increased staffing on the basis of the compliance assessment to better ensure future compliance. One importer felt it had not received any benefits from the compliance assessment. The importer felt that way because it was already highly compliant, as evidenced by the low-risk rating it received from the compliance assessment.

[13]Appendix I provides information on how the nine importers interviewed by GAO were selected.

Six importers interviewed commented on the length of the assessment; the resultant cost to their operations; and the amount of staff resources dedicated to preparing for, and providing information to, the auditors. Two importers felt that the compliance assessment process should be more standardized because of differences in the process identified from discussions with other importers about their compliance assessments. Three importers indicated that Customs should demonstrate more commitment to working with them, and one importer commented that Customs should be less adversarial during the compliance assessment. It should be noted, however, that assessments performed on companies we interviewed had been completed early in the program when Customs was still designing and refining the basic compliance assessment process. The assessments were also completed before Customs began to revise and expedite the compliance assessment process, as previously discussed.

The Account Management Program Is Encountering Staffing Difficulties, and its Impact on Importer Compliance Is Unknown

Account Management is Customs' approach to managing its work through accounts—importers—rather than by individual merchandise transactions at the ports of entry. According to Customs, an account manager is to maintain a liaison with the account, provide information under the principle of informed compliance, help ensure uniform treatment of an account's merchandise at all ports, and help the company identify and resolve any areas of noncompliance.

In fiscal year 1997 Customs identified 7,405 major importers as candidates for the account management program. Customs hopes to eventually assign managers to all 7,405 importers depending on availability of staff resources. However, Customs had not developed a plan or time frame for assigning account managers to the importers and had not determined the level of staff resources that would be necessary to manage the accounts. Customs had assigned account managers to 604 importers from fiscal year 1995 through fiscal year 1999. On the basis of current progress and staffing, it will be several years before all candidate accounts are assigned managers. Moreover, Customs may not have enough staff resources to assign account managers to all candidate importers.

Customs also had not evaluated whether its investment in the account management program has had any positive impact on improving importers' compliance rates. Customs had identified several performance measures for the account management program, including increased compliance, uniformity, and customer satisfaction, but was just beginning to develop the methodology for collecting data as of July 1999.

Overview of Account Management

Account management is Customs' approach to viewing an importer (an account) in the aggregate rather than by each merchandise entry transaction. It includes analysis of an account's compliance nationwide, coordination of all Customs activities involving the account, and identification and resolution of compliance problems. Account management also provides a point of contact within Customs to assist the account. The National Account Service Center (NASC) at Customs headquarters is responsible for managing both the national and port account programs.[14]

National account managers are devoted full-time to account management and are assigned by NASC to the largest importers. The national account program was prototyped with eight accounts from February 1996 through February 1997 and implemented nationwide in May 1997. As of September 30, 1999, 25 national account managers were assigned an average of 6.2 accounts each, with a range of 2 to 9 accounts each.

For port account team members, account management is a collateral function. Port account teams are led by import specialists[15] and may include additional import specialists, cargo inspectors, and other personnel. Port accounts are selected by the ports in coordination with NASC and must be approved by NASC. The port account program was prototyped at 12 ports with 12 accounts from February 1997 through August 1997. It was implemented in the prototype ports in October 1997 and in 31 other ports in February 1998. The port account program is conducted at 43 ports designated as "service ports," which have a full range of cargo-processing functions. The size and composition of port account teams vary on the basis of account size and staff availability, according to the NASC Director. Most teams include a minimum of two import specialists. The team assigned to an importer is to be from one of the top five ports through which the importer enters merchandise on the basis of import value.

The account management cycle consists of six steps:

1. selecting an importer and assigning an account manager;

[14]NASC was renamed the Commercial Compliance Division in July 1999 after we completed our fieldwork.

[15]Import specialists are responsible for various duties, including reviewing the entry summary paperwork associated with import transactions, preparing binding rulings, and participating on compliance assessment teams.

2. contacting the account;

3. developing a profile of the account's import activities and history;

4. evaluating the account's internal controls identified in an internal controls questionnaire completed by the importer, preparing an account action plan, and obtaining Customs and account approval of the action plan;

5. monitoring implementation of the account action plan; and

6. maintaining the account after the action plan items are completed.

Maintaining an account (step 6) includes monitoring compliance rates, coordinating outreach/improvement activities, and identifying additional areas for improvement. At this step, the amount of time required by Customs to manage the account is expected to decrease; and the full benefit of account management is expected to be realized because the importer would have adequate internal controls and a high compliance rate, according to the NASC Director.

Customs identified the top 378 importers by value of imports as possible candidates to be assigned national account managers. These companies represented 50 percent of the value of imports as of September 30, 1996. The next group of 7,027 companies (ranked 379 to 7,405) were identified as possible candidates to become port accounts because they each imported over $10 million annually. These companies represented the next 32 percent of the value of imports. Within these two groups, Customs prioritizes individual importers for possible assignment of an account manager or team, using a risk score that is based on import value, compliance rate, number of line items,[16] its ranking in the top 250 companies within a PFI, and having at least 50 percent of imports in a PFI. Although NASC selects importers to be assigned national account managers, the ports select importers in coordination with NASC, and these selections must be approved by NASC.

[16]Customs uses the number of line items as an indicator of import activity rather than the number of entries because an entry of imported merchandise may consist of one or more different commodities, each of which must be listed separately as its own line item.

Customs Has Not Developed a Plan for Assigning Account Managers to Additional Accounts

NASC has not developed a plan for assigning account managers to all 7,405 candidate accounts, according to the NASC Director. The Director also told us that the specific level of staff resources necessary to manage all potential candidate accounts had not been determined, but with current resources Customs will not be able to assign account managers to all candidates in the pool. In lieu of an assignment plan, NASC was gradually assigning additional accounts to the national account managers and ports on the basis of their ability to take on additional accounts and on the progress of existing accounts. Customs had established an interim goal of having 600 accounts assigned by the end of fiscal year 1999—200 national and 400 port accounts. As of September 30, 1999, Customs had assigned 156 national and 448 port accounts for a total of 604 accounts (see table 3).

Table 3: Number of National and Port Accounts by Fiscal Year

Type of account	FY 95	FY 96	FY 97	FY 98	FY 99	Total as of September 30, 1999
National	3	10	89	40	14	156
Port	0	0	12	237	199	448
Totals	**3**	**10**	**101**	**277**	**213**	**604**

Source: GAO analysis of data provided by Customs' National Account Service Center.

Factors Hampering Development of Additional Accounts

The NASC Director cited five factors that hampered the establishment of additional national and port accounts. These factors were:

- the time required to manage the existing accounts, many of which had not reached maintenance;
- the need to revise an internal control evaluation questionnaire given to accounts;
- difficulty persuading importers to sign an account action plan;
- delayed implementation of the ACE system to manage import activities; and
- the part-time status of port account management teams, whose members have other duties to perform.

Customs' ability to assign account managers to additional importers was limited, in part, because many of the existing accounts were not yet in maintenance and still required a substantial amount of time to manage, according to the NASC Director. The Director expects the staff resources needed to manage accounts to be less in the maintenance step than earlier

in the account management cycle. As shown in table 4, as of March 31, 1999, 46 accounts had reached maintenance, including 21 national accounts and 25 port accounts.

Table 4: Number of Accounts and Steps in Account Management Cycle as of March 31, 1999

Step in account management cycle	National accounts	Port accounts	Total accounts
Step 1: Account selected/ manager assigned	2	42	44
Step 2: Account contacted	11	44	55
Step 3: Account profile completed	85	114	199
Step 4: Internal controls evaluated/action plan prepared and approved	14	18	32
Step 5: Monitoring action plan items	20	57	77
Step 6: Maintenance	21	25	46
Unknown [a]	4	6	10
Total number of accounts 3/31/99	**157[b]**	**306**	**463**

[a] The status of 10 accounts was not available for various reasons, including referral to the Office of Investigations and company ownership change.

[b] One national account was subsequently reassigned to the port account management program prior to the end of fiscal year 1999.

Source: GAO analysis of data provided by Customs' National Account Service Center.

In February 1999, Customs established a working group to redesign the internal control evaluation questionnaire so it could be used for both compliance assessments and internal control evaluations of accounts. This effort was intended to facilitate timely completion of the internal control questionnaire by accounts and to clarify that importers would not be asked to complete two slightly different questionnaires, as had been the practice in the past. At the time of our review, no target date had been established for implementing the new questionnaire.

The NASC Director told us that several account managers had experienced significant difficulties and delays in persuading company officials to approve and sign the account action plan. Many importers reportedly believed that the signature made the action plan a contractual agreement, which led to delays while the importers and their attorneys reviewed the plan. Starting in February 1999, NASC made signature by an account official optional, which was intended to eliminate the importers' concern about a contractual agreement and reduce delays.

Delay in developing the ACE system to manage import activities has made preparing account profiles and monitoring accounts more difficult and time-consuming, according to the NASC Director. Under the present computer system, data on imports are captured by port and are not readily available on a nationwide basis. National data on a particular importer are not available without identifying all ports used by the importer and manually combining the data for these ports. Under ACE, nationwide data are to be available on a real-time basis on all importers for use by account managers and other Customs personnel to monitor—for example, national compliance rates for individual importers.

Progress of port accounts was also hampered because account team members are part-time and have competing duties, according to the NASC Director. In responding to a survey at the end of the port account prototype, 9 of the 12 port account teams indicated that their other work suffered due to their having to manage the port accounts. In November 1998, NASC identified 12 "problem ports" where it considered progress with the port account program to be slow, and it imposed a temporary freeze on establishing additional accounts at those ports. According to the NASC Director, NASC staff visited many of these ports to encourage them to devote additional staff hours to port account management, take on additional port accounts, and/or do a better job reporting on port account activities. Customs officials anticipate that as the port account management program matures, port account managers will view it as a better way of doing their jobs because it will allow them to look at their work in the aggregate, not transaction by transaction. In addition, the officials believed that port account management will also assist port account managers in focusing their efforts in the areas determined to be noncompliant.

National Account Manager Staffing

The national account program was implemented in fiscal year 1997, with 25 full-time national account managers. Customs originally hoped to increase the number of national account managers to 100 in order to manage 1,000 accounts (about 10 accounts per account manager). Because Customs was not able to obtain funding to increase the number of national account managers, it reduced the number of potential national accounts from 1,000 to 378.

Customs' first two attempts to obtain funding to increase the number of national account managers were unsuccessful. Customs requested 80 additional national account managers in its fiscal year 1999 budget submission. The request was reduced to 50 by the Treasury Department and ultimately disapproved by the Office of Management and Budget. For

fiscal year 2000, Customs requested 50 additional national account managers, but the Treasury Department did not approve the increase. Customs again planned to request 50 additional national account managers in its fiscal year 2001 budget submission.

Whether Customs Has Sufficient Staff to Assign Managers to Many Port Accounts Is Uncertain

On the basis of current staffing, it is uncertain whether Customs has enough import specialists to assign to port account teams to manage many of the 7,027 candidate port accounts. As of December 31, 1998, Customs had a total of 1,002 import specialists based at the ports in the port account program. Dividing 7,027 candidate accounts by 1,002 import specialists means that each import specialist would need to serve on about 7 teams. Because a team normally has at least 2 import specialists, each import specialist would need to serve on about 14 teams, in addition to performing other duties. This is in sharp contrast to full-time national account managers, who were assigned an average of 6.2 accounts.

In addition, Customs had no system for establishing accounts at the various ports. According to the NASC Director, the ports were initially allowed to request accounts without NASC guidance on how many accounts a port should be able to manage on the basis of staffing, workload, or any other criteria. Since January 1999, only ports where the number of import specialists was greater than the number of accounts were allowed to assign additional port accounts. The total number of accounts at these ports was limited to one account per import specialist.

To determine whether a difference existed in the ratio of import specialists to port accounts at the various ports, and whether the difference had decreased since the new policy limiting assignment of additional port accounts, we compared the average number of import specialists per account as of both December 31, 1998, and September 30, 1999. As of December 31, 1998, we found that the average ranged widely: for example, Blaine, WA, had 16 import specialists and 1 port account; Charleston, SC, had 13 import specialists and 12 port accounts. Appendix III shows the number of import specialists, the number of accounts, and the average number of import specialists per account at each port.

From January through September 30, 1999, 190 additional accounts were assigned to 36 ports. These assignments were consistent with the new policy in most of the ports, and the difference was reduced as shown in appendix III.

Impact of Account Management on Importer Compliance Is Unknown

NASC identified increased compliance, uniformity of entry summary reviews among import specialists and/or among ports, and customer satisfaction as account management performance measures in the August 1998 Account Management Standard Operating Procedures. However, as of July 1999, NASC was just beginning to develop the methodology for collecting data. According to the NASC Director, the delay was due to lack of staff resources and to staff turnover.

To assess the impact on importer compliance with U.S. laws and regulations, NASC had planned to analyze the compliance rate of accounts within the account management program from year to year. NASC was working with the Analytical Development Division to develop a methodology for measuring account compliance, according to the NASC Director. No target date had been established for completing this methodology or for its implementation as of July 1999.

NASC was in the process of developing a method to ensure the uniform treatment of merchandise imported by port accounts by sampling entry summary reviews for port accounts. Transactions from selected port accounts throughout the country would be reviewed to ensure that all ports were treating merchandise uniformly no matter through which port it entered. According to the NASC Director, the methodology was to be developed by October 1999 and implemented in January 2000.

To obtain feedback on customer satisfaction, the NASC Director told us that he had begun meeting individually with importer officials. NASC had originally considered an annual customer satisfaction survey but decided to conduct interviews instead.

Most Selected Importers Cited Benefits From Account Management

We interviewed nine importers[17] to obtain their views on the advantages and disadvantages of account management and to determine whether they had any suggestions for improvement. All nine importers indicated that they liked the account management concept, viewed it as a clear indicator of Customs' commitment to work with the trade community, and had benefited from having an account manager. Specifically, the account manager served as a conduit of information about new Customs regulations and programs and about the results of Customs' cargo examinations. Six importers had asked their account managers to resolve problems at a particular port or ports regarding the entry of merchandise, and they generally felt that the account managers had been fully responsive.

[17]Appendix I provides information on how the nine importers interviewed by GAO were selected.

None of the importers interviewed cited any disadvantages to being assigned an account manager, and all importers indicated that if given a choice they would opt to continue to participate in the program. Six importers had suggestions for improving the account management process. Four importers felt that they would benefit more from account management if their account managers were based closer to them. In one case the importer reported that it had requested and had been assigned an account manager based in the same city. One importer indicated that to better ensure uniform treatment by the various ports, account managers should be given authority to resolve disputes about entry classification, value, and other issues. One importer felt that it would have been more beneficial if the account manager had been assigned during or immediately after the compliance assessment to work on corrective actions, instead of 5 months after the compliance assessment was completed.

Mixed Results From Two Customs Actions Designed to Address Noncompliance

Customs, according to its Trade Compliance Risk Management Process publication, may use informed or enforced compliance to ensure that importers comply with U.S. trade laws and regulations. We analyzed two of six Customs actions designed to address noncompliance within the informed and enforced compliance framework—the Multi-port Approach to Raise Compliance by the year 2000 (MARC 2000) and the Company Enforced Compliance Process (CECP)—and found that Customs' efforts to raise overall compliance rates for importers in selected industries had mixed results.

Description of the Trade Compliance Risk Management Process

Customs' trade compliance process has for years consisted of activities ranging from preimportation analysis through cargo arrival, examination, release, revenue collection, investigation, fines, penalties and forfeitures, and archival of trade data. Though these activities continue to the current day, the 1993 Mod Act led Customs to change the focus of its trade compliance process from a transaction-by-transaction based system to an account, or company/importer, based process.

As part of its effort to make Mod Act-induced changes, Customs established a Risk Management Process to best allocate available resources to trade priorities. Customs concentrated on identifying industries and/or importers that represented the greatest risk of noncompliance and on taking the appropriate action to remedy the situation.

According to Trade Compliance Risk Management Process, Customs' risk management process consists of four key steps: (1) collecting data and information, (2) analyzing and assessing risk, (3) prescribing and taking

action, and (4) tracking and reporting results. Customs relies on established programs, such as compliance measurement, compliance assessment, and account management, to collect data and information necessary to identify noncompliant industries and importers. After detecting and identifying the sources of noncompliance and analyzing and assessing the risk of continued trade violations, Customs decides what informed or enforced action is warranted and what resources are needed to address the problems. Over the last few years, Customs has developed a variety of tools, including MARC 2000 and CECP, to maximize trade compliance through an approach of both informed and enforced compliance.

Unclear Results From MARC 2000 Informed Compliance Action

Customs, in fiscal year 1997, initiated the MARC 2000 project to raise compliance of targeted industries within the trade community. MARC 2000 evolved from a 9-month pilot program in fiscal year 1996, consisting of 12 ports working independently to raise the compliance of locally selected imports. After the pilot program, MARC 2000 involved multiple ports with common compliance issues that joined together to formulate and implement a national plan designed to raise compliance within four industries, including bearings, gloves, production equipment, and automobiles. Customs also initiated plans to include four other industries—lighting fixtures, plastics, headgear, and express consignment facilities—in MARC 2000. The informed compliance aspect of MARC 2000 included outreach efforts, such as seminars, importer counseling, presentations at association meetings, and publication dissemination to the targeted industries.

In its fiscal year 1998 MARC 2000 Annual Report, Customs reported mixed results that did not clearly indicate success or failure. Fiscal year 1998 compliance rates for bearings and certain components of production equipment increased over fiscal year 1996 baseline compliance rates. Compliance rates for gloves and automobiles, however, fell below fiscal year 1996 baseline rates. Fiscal year 1998 compliance rates for these industries were all below the prior year's (fiscal year 1997) compliance rates (see table 5).

Table 5: MARC 2000 Targeted PFIs' Compliance Rates for Fiscal Years 1996 Through 1998

	Compliance rates (percentages)		
Primary focus industry	**1996**	**1997**	**1998**
Bearings	77	86	82
Knitted Gloves	85	96	81
Non-knitted Gloves	80	81	74
Presses (production equipment)	64	74	69
Molds (production equipment)	56	79	75
Automobiles	91	97	87

Source: GAO analysis of data provided by Customs' Office of Strategic Trade.

Furthermore, fiscal year 1998 compliance rates for these industries were all below Customs' 95 percent compliance goal for PFIs.

Customs' fiscal year 1998 MARC 2000 Annual Report indicated that it would continue the program in fiscal year 1999 with some modifications. For example, Customs was to expand the focus in production equipment from presses and molds to welding equipment. Additionally, only those ports with an auto industry compliance rate below 90 percent were to continue conducting the automobile action. The remaining ports were to monitor auto industry compliance through continued compliance measurement. Finally, Customs was to address the possibility of requiring noncompliant bearings importers to pay duties, fees, and taxes prior to cargo release. The report stressed that enforced compliance actions were to occur when appropriate.

Unclear Results from CECP Enforcement Actions

According to Trade Compliance Risk Management Process, Customs determines whether to use informed or enforced compliance by taking into account the nature, scope, and impact of noncompliance. There are times when the informed compliance approach is not appropriate. After ongoing informed compliance efforts have failed, if voluntary compliance has not been achieved and repetitive compliance problems continue, Customs may take enforced compliance actions against violators. Examples of enforced compliance actions include initiating an investigation when criminal activity is suspected; seizing illegal cargo; making arrests when warranted; issuing penalties prescribed by regulation; requiring the payment of duties, fees, and taxes before cargo is released; and conducting additional compliance examinations. According to Customs, enforcement actions such as seizure and investigation are reserved for those instances of egregious violations; fraud; or ongoing, repetitive violations that could not be resolved through informed compliance.

Customs began CECP in March 1998 to identify, target, and take action against individual importers with the most serious ongoing compliance problems. Under CECP, Customs monitors compliance measurement rates for major importers and develops in-depth reviews for those companies whose compliance measurement rates are below 90 percent in order to determine what should be done to address the continued noncompliance. Customs designates importers with continuously low compliance that have not made progress in existing compliance programs as "confirmed risk." Customs begins enforced compliance action against importers designated as confirmed risk.

Customs initially identified 32 companies with compliance rates below 90 percent and designated 4 of the 32 with stagnating or deteriorating compliance rates as confirmed risk on the basis of their fiscal year 1997 compliance rates. Customs provided the companies written notification indicating their confirmed risk status and subjected them to increased compliance measurement examinations for up to 7 months. Three of the importers ended fiscal year 1998 with compliance rates slightly above the fiscal year 1997 rates. The fourth importer's fiscal year 1998 compliance rate dropped nearly 13 percent below its fiscal year 1997 rate. A preliminary review of the first two quarters of fiscal year 1999 compliance measurement data, however, indicated that the fourth importer's compliance rate reached 100 percent. The other three importers' compliance rates remained below 90 percent (see table 6). According to Customs, no other enforcement action had been taken against the confirmed risk importers because the companies were making progress. In September 1999, Customs recommended that the confirmed risk designation be dropped from three of the four companies. Customs will make its final decision and inform the companies of their new status in December 1999.

Table 6: Compliance Rates for Confirmed Risk Importers

	Compliance rates (percentages)		
Importer	FY 97	FY 98	Mid-FY 99
A	61	68	68
B	83	85	86
C	64	69	87
D	87	74	100

Source: GAO analysis of data provided by Customs' Office of Strategic Trade.

By the end of fiscal year 1998, Customs, using CECP, identified 128 importers, including the 32 initially identified, with compliance rates below 90 percent for at least 1 fiscal year. Customs then determined which were the largest importers most likely to have a significant impact on industry

compliance rates once they became compliant. After making its determination, Customs provided a list of 43 importers to Strategic Trade Centers, Customs Management Centers, assistant port directors, account managers, and members of the Strategic Planning Board responsible for recommending an enforced compliance action, among others, for review and feedback. Customs also generated and circulated a Trade Compliance Analytical Review (TCAR) containing compliance rates, compliance assessment results, descriptions of violations, and a recommended level of compliance measurement examinations for each of the 43 selected importers.

Customs' Strategic Planning Board, consisting of representatives from the Office of Strategic Trade, Office of Field Operations, Office of Investigations, and others, met on March 11, 1999, to determine and recommend compliance actions for the 43 importers. The Strategic Planning Board recommended a variety of actions, including increased compliance measurement examinations, referrals to ports for action, and continued monitoring through compliance examinations. The Strategic Planning Board did not recommend imposing any penalty enforcement actions, such as seizures or fines.

According to Customs, the Strategic Planning Board makes subjective determinations, without specific criteria, when determining the course of action to improve importer compliance. The Strategic Planning Board relies on feedback provided by account managers, port account team leaders, and assistant port directors; analytical information contained in the TCAR reports; and discussions about importer progress towards improved compliance when deciding what enforcement actions, if any, to recommend.

According to Customs, the Strategic Planning Board had not recommended enforcement actions such as seizures or fines against noncompliant importers identified through CECP because their trade violations were not significant enough to warrant such responses. Significant and willful violations such as narcotics smuggling and fraud have, of course, always been and will continue to be enforced in the traditional fines, penalties, and forfeitures environment outside of CECP.

Customs Evaluation Efforts

Under the Results Act,[18] executive agencies are to develop strategic plans in which they, among other things, define their missions, establish results-oriented goals, and identify strategies they plan to use to achieve those

[18]Government Performance and Results Act of 1993, P.L. 103-62.

goals. In addition, agencies are to submit annual performance plans covering the program activities set out in the agencies' budgets (a practice that began with plans for fiscal year 1999). These plans are to describe the results the agencies expect to achieve with the requested resources and indicate the progress the agency expects to make during the year in achieving its strategic goals.

Earlier this year, we testified[19] that the strategic plan developed by the Customs Service addressed the six requirements of the Results Act. The plan's goals and objectives covered Customs' major functions—processing cargo and passengers entering and cargo leaving the United States. The plan discussed the strategies by which Customs hopes to achieve its goals. The strategic plan discussed, in very general terms, how it related to annual performance plans. It also contained a listing of program evaluations used to prepare the plan and provided a schedule of evaluations to be conducted in each of the functional areas.

In addition to the required elements, we testified that Customs' plan discussed the management challenges it was facing in carrying out its core functions, including information and technology, finance, and management of human capital. We concluded that the plan did not, however, adequately recognize several issues that could affect the reliability of Customs' performance data, such as needed improvements in financial management and internal control systems.

Along these lines, Customs' fiscal year 2000 budget justification states that Customs needs to reassess a number of the performance goals. The justification also states that Customs will continue to refine its compliance measurement program in order to improve voluntary compliance.

The justification also states that although Customs did not meet 12 of its 17 performance goals, it does not plan to change its basic approach to improving compliance, concluding that the performance goals that were established were too ambitious for the resources available. The justification does not, however, contain any plans for Customs to evaluate its approach to improving compliance, including the initiatives and actions that implement the informed compliance strategy: information programs, compliance measurement, compliance assessment, account management, and responses to noncompliance by importers. Customs will not be able to set realistic goals without the results of evaluations.

[19]U.S. Customs Service: Enforcement Oversight Issues (GAO/T-GGD-99-99, May 18, 1999).

Conclusions

The Mod Act represented a significant change in how Customs relates to the importing trade community. For over 200 years, Customs and the importing trade community had an enforced compliance relationship based on transaction-by-transaction scrutiny for compliance with trade laws. With passage of the Mod Act, Customs began to focus on informed compliance by importers, rather than the enforced compliance emphasis of the past. Although Customs has implemented five key initiatives and actions that constitute its informed compliance strategy, three of them are lagging in terms of the level of activity originally expected. Compliance rates, used to measure the effectiveness of these initiatives and actions, are showing no measurable improvement.

Although Customs has monitored and evaluated certain aspects of the initiatives and actions, it has not evaluated, nor does it have a plan to evaluate, the impact on compliance of the overall informed compliance strategy. A properly designed and implemented evaluation would enable Customs to determine whether the overall informed compliance strategy is working and determine what contributions the initiatives or actions are making. This seems especially important since Customs may not be able to reach its goals in terms of coverage for the compliance assessment and account management initiatives. Given that both initiatives may stay far smaller than originally envisioned, it is important to determine what effect they are likely to have on compliance rates with the importer coverage they can reasonably achieve.

Under the Results Act, agencies are to assess their performance against their goals and determine, for goals not achieved, whether the goals were too high, resources too scarce, or agency efforts too ill-managed. Customs has adjusted its compliance goals to reflect a 4-year delay because, according to Customs, the established goals were too ambitious for the resources available. An evaluation of the informed compliance initiatives and actions could provide Customs with the information it needs to maximize the use of the resources available for this program by enhancing what works and reducing or eliminating what does not. It could also provide the information needed for Customs to establish reasonable goals for the program.

Recommendation

We recommend that the Commissioner of Customs develop and implement an evaluation of the effectiveness of its informed compliance strategy.

Agency Comments and Our Evaluation

We requested comments on a draft of this report from the Secretary of the Treasury. In a letter dated November 11, 1999, the Customs Service's Director of the Office of Planning provided us with comments on the draft,

which we have reprinted in appendix IV. Customs' primary focus concerned the report's recommendation, which Customs felt should be clarified to focus on the five compliance programs targeted by the report, and not on the entire broad piece of legislation that is the Mod Act. If the phrase "and the specific initiatives and actions it developed to implement the Mod Act…" were omitted from the draft recommendation, Customs believed it would be able to better target its response to the issues raised in the report. We agree with Customs and omitted the phrase from the recommendation to ensure Customs' focus on evaluating its informed compliance strategy and not other parts of the Mod Act.

Customs also believed that the report should recognize that its informed compliance efforts have been continually evaluated and refined, but our report conveys the opposite impression. Customs also stated that many monitoring and evaluation efforts are under way, and major component areas of informed compliance will continue to be analyzed and assessed. It said enhancements to programs and processes will also be implemented as appropriate. We stated that "While Customs has monitored and evaluated certain aspects of the initiatives and actions, it has not evaluated nor does it have a plan to evaluate the impact on compliance of the overall informed compliance strategy." We agree with and support Customs' ongoing monitoring, evaluation, and enhancement efforts of its many programs, including those related to informed compliance activities. However, we continue to believe that an evaluation, under the Results Act umbrella, of the initiatives and actions that implement the informed compliance strategy is necessary for Customs to be able to set realistic performance goals for improving importers' compliance rates. Moreover, this evaluation could identify the contribution of each initiative and action toward achieving the overall goal of the informed compliance strategy and improving importers' compliance rates.

In addition, Customs stated that the report gives the impression that as the compliance rates have not risen to the levels anticipated, there is something inherently wrong with the informed compliance approach. Customs also stated that it believes there is a value to informed compliance above and beyond raising compliance, as comments from several importers that we interviewed indicated. We have not concluded that there is something inherently wrong with the informed compliance strategy and did not intend to give that impression. We stated in our conclusions section on page 37 that compliance rates, used to measure the effectiveness of informed compliance initiatives and actions, are showing no measurable improvement and that a properly designed and implemented evaluation could determine whether the overall informed

compliance strategy is working and what contributions the initiatives or actions are making. If, after such an evaluation, Customs determines that one or more of the initiatives are not making substantial contributions to the overall goal of raising importers' compliance rates, then either part or all of the informed compliance strategy should be reexamined at that time. In addition, we included comments from the major importers to show that there was indeed value to the informed compliance program, notwithstanding our concerns about the lack of progress in producing the benefits expected from the program.

Customs also raised concerns about the correlation we make between the compliance assessment and its impact on compliance as indicated by an analysis of 59 importers (see p. 21). Customs believes that it is premature to draw any conclusions regarding the link between compliance assessments and compliance measurement because the programs measure different areas of compliance. Customs also believes that our conclusion that compliance assessments may not have improved compliance based on a drop in fiscal year 1998 compliance rates is premature and not sufficiently supported. Customs does not feel that sufficient analysis has been done to lead to that conclusion and requests that the analysis of compliance rates of 59 importers, many of which are not statistically valid, be removed from the report as the support for drawing the conclusion.

In addition to the written comments from Customs on the results of our analysis of 59 importers and the impact on compliance from their compliance assessments, we had several discussions with Customs officials on this issue. Specifically, as further clarification on this issue, the officials believed that (1) because most of the compliance rates in our analysis are not statistically valid, we should reconsider using them as a basis for indicating the impact of compliance assessments; (2) it is premature to draw any conclusions regarding the link between compliance assessments and compliance measurement; and (3) compliance determined under a cargo examination (compliance measurement) is not identical to compliance as a result of a compliance assessment. The officials pointed out that, for example, the compliance assessment may conclude that an importer is not compliant because of unreported value in its merchandise. This is determined through an examination of the importer's books and records. On the other hand, the officials noted that compliance measurement examinations may determine that an importer is not compliant because of inaccurate marking of merchandise. This would be determined by physical inspection of the merchandise, which could not be determined during a compliance assessment.

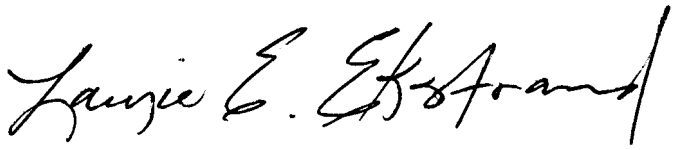
As noted on page 21 of the report, although most of the compliance rates in our analysis are not statistically valid, they continue to provide an indicator about whether or not overall compliance improved at importers that had received compliance assessments. In addition, the Regulatory Audit Division Director agreed that our analysis, although not based on statistically valid compliance rates, does have some usefulness for evaluating compliance. As we also noted on page 16 of the report, compliance assessment is a review to ensure that a company's imports are in compliance with U.S. laws and regulations, the goal being to ensure maximum compliance. Although a compliance assessment involves reviewing a company's books and records, it also involves statistical sampling of entry transactions, including a minimum review of compliance in five trade areas, including classification, value, and quantity. This procedure appears to establish the link between compliance assessment and compliance measurement, since compliance assessment findings are used to determine the frequency of future compliance measurement examinations. It also appears that compliance measurement results could and should be used to analyze the impact of compliance assessments. As our limited analysis showed on page 21, compliance measurement rates serve as an indicator of whether or not overall compliance has improved.

We have also included in the final report technical comments and suggestions from Customs as appropriate.

As arranged with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 10 days after its issue date. At that time, we will send copies of this report to the Honorable Sander M. Levin, Ranking Minority Member of your Subcommittee; the Honorable Raymond Kelly, Commissioner of Customs; and Mr. Robert Trotter, Customs' Assistant Commissioner for Strategic Trade.

The major contributors to this report are acknowledged in appendix V. If you or your staff have any questions on this report, please call Darryl Dutton on (213) 830-1000 or me on (202) 512-8777.

Sincerely yours,



Laurie E. Ekstrand
Director, Administration
of Justice Issues

Contents

Letter	1
Appendix I Scope and Methodology	44
Appendix II FY96 and FY98 Compliance Measurement Exams and Compliance Rates for 59 Importers With Compliance Assessments by 9/30/97	48
Appendix III Number of Import Specialists and Port Accounts by Port	50
Appendix IV Comments From the Department of the Treasury	52
Appendix V GAO Contacts and Staff Acknowledgments	56

Tables

Table 1: Compliance Assessments Completed as of March 31, 1999, by Primary Focus Industry 18
Table 2: Changes to Compliance Rates From FY 1996 to FY 1998 for 59 Importers With Compliance Assessments Completed by September 30, 1997 22
Table 3: Number of National and Port Accounts by Fiscal Year 26
Table 4: Number of Accounts and Steps in Account Management Cycle as of March 31, 1999 27
Table 5: MARC 2000 Targeted PFIs' Compliance Rates for Fiscal Years 1996 Through 1998 33
Table 6: Compliance Rates for Confirmed Risk Importers 34

Figures

Figure 1: Compliance Rates Have Remained Static Between Fiscal Years 1995 and 1998 13
Figure 2: Projected Net Revenue Underpayments Have Increased 15

Abbreviations

ACE	Automated Commercial Environment
ACS	Automated Commercial System
CAM	Controlled Assessment Methodology
CEBB	Customs Electronic Bulletin Board
CECP	Company Enforced Compliance Process
MARC 2000	Multi-port Approach to Raise Compliance by the Year 2000
NASC	National Account Service Center
PFI	Primary Focus Industry
TCAR	Trade Compliance Analytical Review

Scope and Methodology

To review the status of Customs' implementation of the informed compliance strategy developed in response to the Mod Act and to determine the extent to which trade compliance under the new program had improved, we concentrated on five key initiatives. For overall program information, we interviewed key Customs officials from the Office of Strategic Trade and Office of Regulations and Rulings. We obtained background material on the Mod Act from these two offices and from the Office of Field Operations and Office of the Chief Counsel. We also obtained and reviewed the background and legislative history of the Mod Act.

We obtained numerous documents from the key Customs offices mentioned above, including: The Customs Modernization Act Guidebook; The Trade Compliance Road Map; the U.S. Customs Service Strategic Plan, fiscal years 97—02; U.S. Customs Service Accountability Report, fiscal years 1995—1998; Trade Compliance Measurement Report, fiscal years 1995—1998; Trade Compliance and Enforcement Plan, fiscal years 1995—1998; and Trade Compliance Risk Management Process.

In addition to these background and planning documents, we obtained more specific documents and conducted additional interviews concerning each of the five initiatives as discussed below.

Basic and Targeted Information

To examine Customs' information programs portion of its informed compliance strategy, we began by reviewing the May 20, 1996, Commissioner's Informed Compliance Strategy. This document describes the basic and targeted information programs and their components. Using this document as a guide, we analyzed the information that Customs disseminated by various methods, including the Internet and CEBB. We also obtained lists of headquarters-sponsored seminars and other informed compliance outreach activities.

To obtain information on informed compliance outreach efforts at the Ports of Seattle and Los Angeles/Long Beach, we interviewed key officials and obtained selected documents. The documents included Seattle Trade Talk newsletter and Port of Los Angeles Public Bulletins. We also obtained lists of seminars and other local outreach efforts. We selected Seattle for review because Customs officials told us that it had been involved in numerous pilot projects concerning implementation of the informed compliance strategy. We selected Los Angeles/Long Beach because of its proximity to the Long Beach Strategic Trade Center, where much of our fieldwork was conducted, and because it is a major port, through which a large volume of imported merchandise enters the United States.

Compliance Measurement

To identify the impact that the informed compliance program has had on levels of importer compliance, we obtained and analyzed the Trade Compliance Measurement Reports for fiscal years 1995 to 1998. We interviewed key Customs headquarters officials responsible for the compliance measurement program and discussed program results with them.

Because compliance measurement is a process based on physical inspections of merchandise and/or entry summary documentation reviews to determine compliance rates, we assessed the reliability of the data used to make the compliance rate determinations. We interviewed officials from Customs' Office of Information Technology, which manages ACS, Customs' primary data collection and import processing system. The officials explained and documented how the data are entered into the system and the uses of the data. We did not verify or validate the data through any data testing, but we did discuss the reliability of the data with Office of Information Technology officials. The officials explained the logic and the different edit checks used to scrutinize the data from the time they are initially entered into the system by importers or brokers, to the time they enter the statistical programs that select merchandise or entry summaries for examination. We assessed these data systems as sufficiently reliable for use in this report.

In order to evaluate the statistical sampling methods that Customs used to generate compliance rates, we interviewed statisticians in the Office of Strategic Trade, and we reviewed descriptions of the statistical sampling methodology provided in Customs publications and internal memoranda. Our interviews and examinations of the written materials gave us an understanding of the sampling design and variance estimation procedures used in the sampling plan. However, our review did not include an examination of Customs' computer software to determine whether the software executed the same procedures that were described to us. We assessed Customs' statistical sampling methodology as being reasonable and adequate for the purpose of generating compliance rates.

Compliance Assessment

To determine the status of Customs' compliance assessment initiative, we interviewed headquarters officials from the Regulatory Audit Division, the organization that conducts the compliance assessments. We discussed the initiative's goals and the timeliness of the assessment process. We reviewed pertinent policy and procedure documents, including criteria for selecting importers to receive compliance assessments. We also analyzed data concerning the amount of time it took to complete each assessment, and the number of compliance assessments completed by March 31, 1999.

To measure the impact of compliance assessments on importers' compliance rates, we analyzed data on importer compliance rates for fiscal years 1996 and 1998. These data were for 59 importers on which compliance assessments had been completed by the end of fiscal year 1997 and that had received compliance measurement exams in both years. We obtained and compared compliance rate data for fiscal year 1996, the first year that company-specific compliance data were available; and for fiscal year 1998, the year after all 59 compliance assessments were completed. We analyzed these data to determine whether compliance rates had gone up, gone down, or stayed the same for importers that had received compliance assessments.

Account Management

To determine the status of the account management initiative, we interviewed headquarters officials, including the Director of the National Account Service Center and national and port account coordinators. We inquired about the goals of the initiative, its progress, and whether any factors were hampering progress. We also interviewed a national account manager and six port account team leaders at the Los Angeles International Airport and the Los Angeles/Long Beach Seaport. We selected these facilities because of their proximity to the Long Beach Strategic Trade Center, where much of our fieldwork was conducted, and because they are major ports through which large volumes of merchandise enter the United States.

We also reviewed pertinent policies and procedures, including criteria by which Customs selects importers to be assigned account managers. We collected and analyzed data on the number of national and port accounts as of September 30, 1999; the fiscal year each account was first assigned an account manager; and the progress of each selected importer through the account management process as of March 31, 1999.

Responses to Noncompliance

To examine Customs' actions to address noncompliance, we analyzed two of six options available within informed and enforced compliance that are described in Customs' Trade Compliance and Risk Management Process—MARC 2000 and CECP. We selected these two programs because they were fully implemented, and the amount of data available for analysis was more concise than for the other options. Time constraints also influenced our selection.

We reviewed the fiscal year 1998 MARC 2000 Annual Report and discussed the results with Office of Strategic Trade headquarters officials. We also analyzed MARC 2000 data provided by the Los Angeles Strategic Trade Center and the South Pacific, Mid-America, Gulf, and South Atlantic

Customs Management Centers. We also reviewed Trade Compliance Analytical Reviews and Strategic Planning Board minutes, and we analyzed CECP data provided by the Office of Strategic Trade.

Views of Selected Importers

To determine the views of importers toward Customs' basic and targeted information, compliance assessment, and account management initiatives, we interviewed nine importers. These importers were judgmentally selected from the population of 30 importers that had (1) a compliance assessment completed by the end of fiscal year 1997 and (2) an account manager assigned by March 10, 1998.[1] We used the cut-off dates to allow sufficient time for the importers to take corrective action, if indicated, after completion of the compliance assessment and for the importers to have at least 1 year of experience with their account managers. We contacted 15 of the 30 importers to request an interview; 9 of the 15 agreed to our interview under conditions of anonymity, to which we agreed.

We performed our work between June 1998 and September 1999 in accordance with generally accepted government auditing standards. We requested comments on a draft of this report from the Secretary of the Treasury. The Customs Service's Director of the Office of Planning provided written comments that are discussed at the end of the letter and are reprinted in appendix IV.

[1]According to the original data provided by Customs, 30 importers met these criteria. Customs later provided revised data that indicated a total of 33 importers met these criteria.

FY96 and FY98 Compliance Measurement Exams and Compliance Rates for 59 Importers With Compliance Assessments by 9/30/97

Importer number	Report date	FY 1996 Stratified exams	FY 1996 Compliance rate	FY 1998 Stratified exams	FY 1998 Compliance rate	Increase or decrease compliance rates FY 1996 and FY 1998	Down	Up	Stayed the same	Full compliance
Low risk										
1	9/3/97	3	66.67%	4	100.00%	33.33%		X		
2	6/2/97	3	66.67%	3	100.00%	33.33%		X		
3	7/28/97	46	78.26%	1	100.00%	21.74%		X		
4	9/30/97	5	100.00%	5	100.00%	0.00%				X
5	3/6/97	37	89.19%	13	92.31%	3.12%		X		
6	4/18/97	29	89.66%	13	84.62%	-5.04%	X			
8	5/16/97	4	75.00%	10	90.00%	15.00%		X		
9	1/31/97	24	83.33%	12	91.67%	8.33%		X		
10	9/2/97	18	72.22%	5	60.00%	-12.22%	X			
11	9/27/96	1	100.00%	1	100.00%	0.00%				X
12	9/27/96	14	100.00%	17	100.00%	0.00%				X
13	4/18/97	85	92.94%	16	93.75%	0.81%			X[a]	
15	9/20/96	201	88.06%	46	80.61%	-7.45%	X			
17	9/30/97	14	85.71%	10	80.00%	-5.71%	X			
18	5/16/97	64	84.38%	17	88.24%	3.86%		X		
24	9/4/97	7	100.00%	1	100.00%	0.00%				X
25	9/29/97	40	85.00%	24	91.67%	6.67%		X		
26	12/20/96	117	88.03%	17	100.00%	11.97%		X		
29	11/14/96	26	96.16%	21	80.96%	-15.20%	X			
32	9/30/97	25	88.00%	6	66.67%	-21.33%	X			
33	9/30/97	43	90.70%	2	100.00%	9.30%		X		
34	9/30/96	52	80.77%	15	80.00%	-0.77%			X[a]	
36	9/26/97	7	71.43%	8	75.00%	3.57%		X		
37	5/21/97	194	91.75%	10	80.00%	-11.75%	X			
38	7/31/97	9	100.00%	7	85.71%	-14.29%	X			
39	9/24/97	102	90.20%	20	80.00%	-10.20%	X			
40	9/22/97	76	93.42%	22	95.45%	2.03%		X		
42	7/19/96	23	78.26%	8	87.50%	9.24%		X		
43	9/27/96	5	80.00%	12	91.67%	11.67%		X		
44	3/5/97	6	100.00%	8	87.50%	-12.50%	X			
45	11/6/96	11	81.82%	5	100.00%	18.18%		X		
51	5/8/97	24	79.17%	6	83.34%	4.17%		X		
53	12/20/96	52	86.54%	11	100.00%	13.46%		X		
Subtotal low risk		**33**					**10**	**17**	**2**	**4**
Medium risk										
54	8/28/96	14	78.57%	7	85.71%	7.14%		X		
56	11/25/96	5	75.00%	5	80.00%	5.00%		X		
57	11/25/96	2	50.00%	3	100.00%	50.00%		X		
58	3/6/97	15	100.00%	10	70.00%	-30.00%	X			
59	9/12/97	8	87.50%	6	50.00%	-37.50%	X			
60	8/13/97	7	57.14%	10	70.00%	12.86%		X		
61	12/5/96	4	75.00%	2	100.00%	25.00%		X		
63	6/30/97	57	85.96%	30	73.33%	-12.63%	X			

Importer number	Report date	FY 1996 Stratified exams	FY 1996 Compliance rate	FY 1998 Stratified exams	FY 1998 Compliance rate	Increase or decrease compliance rates FY 1996 and FY 1998	Down	Up	Stayed the same	Full compliance
66	3/7/97	4	100.00%	10	80.00%	-20.00%	X			
(Medium risk continued)										
68	9/3/96	17	94.12%	9	100.00%	5.88%		X		
69	8/26/96	8	100.00%	8	87.50%	-12.50%	X			
70	7/12/96	21	95.24%	9	77.78%	-17.46%	X			
71	7/19/96	3	100.00%	1	100.00%	0.00%				X
73	8/13/96	9	100.00%	3	100.00%	0.00%				X
Subtotal medium risk		**14**					**6**	**6**	**0**	**2**
High risk										
74	3/7/97	3	66.67%	18	66.67%	0.00%			X	
75	2/2497	1	0.00%	10	90.00%			X		
76	9/29/97	10	80.00%	32	90.63%	10.63%		X		
78	8/12/97	4	50.00%	34	91.18%	41.18%		X		
79	9/8/97	1	100.00%	12	83.33%	-16.67%	X			
80	11/1/96	108	81.48%	183	80.88%	0.60%			X[a]	
81	12/23/96	2	100.00%	1	100.00%	0.00%				X
82	3/5/97	4	100.00%	5	100.00%	0.00%				X
83	9/12/97	14	100.00%	27	92.59%	-7.41%	X			
84	9/5/97	13	100.00%	24	95.83%	-4.17%	X			
86	9/18/97	2	50.00%	25	96.00%	46.00%		X		
87	8/29/97	12	91.67%	55	89.10%	-2.57%	X			
Subtotal high risk		**12**					**4**	**4**	**2**	**2**
Grand total of all risk		**59**					**20**	**27**	**4**	**8**

[a]Difference between the FY 1996 and FY 1998 compliance rates. A positive number in difference column indicates an increase from FY 1996 to FY 1998. A negative number in difference column indicates a decrease from FY 1996 to FY 1998. Where increase or decrease was less than 1 percent, we considered the compliance rate to have remained the same.

Source: GAO analysis of data provided by Customs' Analytical Development Division.

Number of Import Specialists and Port Accounts by Port

Port name (prototype ports*)	No. of import specialists 12/31/98	No. of port accounts 12/31/98	Average no. of import specialists per port account 12/31/98	No. of port accounts assigned Jan. thru 9/30/99	No. of port accounts 9/30/99	Average no. of import specialists per port account 9/30/99
1. Anchorage	4	1	4.0	0	1	4.0
2. Atlanta *	13	6	2.2	4	10	1.3
3. Baltimore	15	2	7.5	2	4	3.8
4. Blaine	16	1	16.0	3	4	4.0
5. Boston	26	6	4.3	3	9	2.9
6. Buffalo*	45	18	2.5	2	20	2.3
7. Champlain	22	3	7.3	5	8	2.8
8. Charleston*	13	12	1.1	1	13	1.0
9. Charlotte	8	2	4.0	1	3	2.7
10. Chicago	37	3	12.3	11	14	2.6
11. Cleveland	29	3	9.7	7	10	2.9
12. Dallas/Fort Worth	14	1	14.0	9	10	1.4
13. Denver	3	2	1.5	2	4	.8
14. Detroit	45	0		13	13	3.5
15. Dulles	5	2	2.5	0	2	2.5
16. El Paso	21	2	10.5	5	7	3.0
17. Honolulu	7	1	7.0	1	2	3.5
18. Houston	16	4	4.0	18	22	.7
19. JFK Airport*	125	20	6.3	28	48	2.6
20. Laredo	12	1	12.0	0	1	12.0
Pharr	9	1	9.0	1	2	4.5
21. LA Seaport*	92	25	3.7	14	39	2.4
22. LAX*	41	15	2.7	4	19	2.2
23. Miami*	32	7	4.6	2	9	3.6
24. Milwaukee	2	1	2.0	1	2	1.0
25. Minneapolis	6	1	6.0	4	5	1.2
26. Mobile	3	0		8	8	.4
27. New Orleans	24	2	12.0	6	8	3.0
28. Nogales	13	1	13.0	4	5	2.6
Phoenix	4	1	4.0	0	1	4.0
29. Norfolk	8	3	2.7	3	6	1.3
30. NY/Newark*	98	36	2.7	1	37	2.6
31. Pembina	8	2	4.0	1	3	2.7
32. Philadelphia*	20	6	3.3	0	6	3.3
33. Portland, ME	6	2	3.0	0	2	3.0
34. Portland, OR	8	3	2.7	1	4	2.0
35. Providence	2	1	2.0	0	1	2.0
36. San Diego/Otay Mesa*	21	5	4.2	3	8	2.6
37. San Franciso*	56	27	2.1	14	41	1.4
38. San Juan	14	4	3.5	0	4	3.5
39. Savannah	6	2	3.0	2	4	1.5
40. Seattle*	27	17	1.6	2	19	1.4
41. St. Albans	12	4	3.0	0	4	3.0

Port name (prototype ports*)	No. of import specialists 12/31/98	No. of port accounts 12/31/98	Average no. of import specialists per port account 12/31/98	No. of port accounts assigned Jan. thru 9/30/99	No. of port accounts 9/30/99	Average no. of import specialists per port account 9/30/99
42. St. Louis	4	1	4.0	2	3	1.3
43. Tampa	5	0		2	2	2.5
Jacksonville	5	1	5.0	0	1	5.0
Totals	1,002	258	3.9	190	448	2.2

Source: GAO analysis of data provided by Customs' National Account Service Center.

Comments From the Department of the Treasury

DEPARTMENT OF THE TREASURY

U.S. CUSTOMS SERVICE

NOV 11 1999

Ms. Laurie Ekstrand
Director, Administration of Justice Issues
General Government Division
U.S. General Accounting Office
Washington, DC 20548

Dear Ms. Ekstrand:

Thank you for the opportunity to review the draft report entitled, " Customs Service Modernization: Impact of New Trade Compliance Strategy Needs to be Assessed." We appreciate the efforts made to continue a dialogue during the course of this audit.

Our primary comment concerns the focus of the report's recommendation. We feel that the recommendation should be clarified as to the scope of the evaluation GAO is asking Customs to undertake. The Customs Modernization Act was a broad piece of legislation, resulting in many changes to Customs business practices. Since the audit team's evaluation concentrated on five compliance programs, we believe that the recommendation should also focus on these programs. By omitting the phrase "and the specific initiatives and actions it developed to implement the Mod Act..." from this recommendation, Customs would be able to better target its response to the issues raised in the report.

We have also attached comments that will help to clarify or make more accurate certain portions of this draft report. We would appreciate final copies of the report being sent not only to the Commissioner of Customs but also to Ms. Brenda Brockman of the Office of Planning, and Assistant Commissioners Winwood (Field Operations), Trotter (Strategic Trade) and Seidel (Regulations and Rulings). If you have any questions about these comments, please contact Ms. Brockman at (202) 927-1507. I would like to thank you and your staff for the assistance provided in this review.

Sincerely,

William F. Riley

Attachment

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Draft Report entitled "Customs Service Modernization: Impact of New Trade Compliance Strategy Needs to be Assessed."

Customs Management Comments:

Now on p. 3.

Now on p. 37.

- The report should recognize that Customs has been continually evaluating and refining its informed compliance efforts. In fact, just the opposite has been reported. On page 5 the report states that, "Customs has not evaluated, nor does it plan to evaluate, the effectiveness of the informed compliance strategy." On page 73 the report states that, "Customs has not evaluated, nor does it have a plan to evaluate, the impact on compliance of the overall informed compliance strategy or the component initiatives or actions."

  We concur that Customs should continue to monitor and evaluate its informed compliance efforts. Indeed many such efforts are underway. As we have done in the past during our regular preparation cycles for the Trade Compliance Strategic Plan and the Trade Compliance and Enforcement Plan, we will continue to analyze and assess our efforts in the major component areas of informed compliance. As in the past, enhancements to programs and processes will be implemented as appropriate.

Now on p. 37.

- The report gives the impression, (see quote cited above from page 73) that as the compliance rates have not risen to the levels we anticipated, there is something inherently wrong with the informed compliance approach. Customs believes that there is a value to informed compliance above and beyond raising compliance, as your research seems to indicate. Note following quotes from the report:

Now on p. 6.

  - Page 12, "Limited feedback that we obtained from several major importers indicated overall satisfaction with Customs' informed compliance information efforts."

Now on p. 8.

  - Page 15, "Customs received positive feedback from the trade community about this series and its applicability toward understanding informed compliance responsibilities."

Now on p. 10.

  - Page 19, "Selected Importers Generally Satisfied With Customs' Informed Compliance Information Programs"

Now on p. 10.

  - Page 19, "All nine importers we interviewed responded that they thought the Web site was very useful as well as a great source of information. The importers said that they checked the Web site frequently for relevant, current information."

Now on p. 11.

  - Page 20, "Overall, importers we interviewed said Customs' efforts to provide the trade community with adequate and timely information were generally sufficient, and its efforts to keep the trade community informed had improved since the Mod Act."

- During a previous discussion/comment phase, we raised concerns regarding the correlation made between the compliance assessment impact on compliance as indicated by an analysis of 59 importers.

Now on p. 21.

Drawing definitive conclusions from this relationship – as is done on page 41 in the section titled "GAO Analysis Raises Concerns about the Impact of Compliance Assessments on Importer Compliance" - still remains a significant concern. Customs believes that it is premature to draw any regarding the link between compliance assessments and compliance measurement. These programs measure different areas of compliance. GAO's conclusion that compliance assessments may not have improved compliance based upon a drop in the FY 1998 compliance rate is premature and not sufficiently supported. We do not feel that sufficient analysis has been done to lead to that conclusion. Therefore, we request that GAO's analysis of the compliance rates of 59 importers on page 42 – many of which are not statistically valid - be removed from the report as the support for drawing this conclusion.

Now on p. 22.

The following are comments made about specific pages of the report:

Now on p. 2.

- Page 4, "Customs hopes to assign account managers to all 7,405 importers." This is not an accurate statement. During early planning for the account management program, Customs identified importers importing over $10 million as potential candidates for account management. This threshold was revised when that pool of candidates became too large for available resources.

Now on p. 26.

On the same subject, page 49 states that we have not "developed a plan for assigning account managers to all 7,405 candidate accounts." Again, based on the resources currently available to us, it is not our intent to assign account managers to every candidate included in this pool.

Now on p. 4.

- Page 6, "referred to as entry summary liquidation". The more accurate term is "entry summary".

Now on p. 4.

- Page 7, "…commercial fraud, fines, penalties, and forfeitures program and antidumping and countervailing duty program are its major weapons against violators of these laws." In actuality, the Anti-dumping/Countervailing duty (ADD/CVD) program is not a weapon against violators of Customs laws. ADD/CVD orders are issued by the Department of Commerce to address illegal dumping activity, which we enforce. This is not our program for dealing with companies that are not compliant. We do have avenues for addressing trade fraud but these concentrate on detention of goods, exclusion of goods from entry, referring matters for investigation and prosecution fraud cases.

Now on p. 6.

- Page 11, "Textiles" should be listed as "Textiles and Wearing Apparel".

Now on p. 11.

- Page 21, "Compliance measurement is, according to Customs, a statistically valid method of determining. . . . " This has been reviewed and approved by a number of agencies, including GAO. It is not only Customs opinion.

Now on p. 14.

- Page 26, "According to its Fiscal Year 2000 President's Budget Justification Materials, Customs anticipates achieving both goals by fiscal year 2004 but acknowledged that further adjustments may be needed as more experience is gained." We believe that this report should recognize that these goals are also dependent upon resources and automation funding.

Now on p. 14.

- Page 27, "The task force identified criteria to distinguish major discrepancies . . ." This task force also identified the impact of the compliance program in determining significance.

Now on p. 24.

- Page 47 states that "account management is a collateral function". We believe a more accurate statement would be:

  "Account Management is Customs solution to effectively manage its largest importers in the aggregate, as opposed to individual entry transactions."

  In addition, we would add that: "Through account management, Customs field personnel are able to focus on areas of noncompliance within an account, and through informed compliance, the account develops procedures to address deficiencies."

  Also, the account management program is conducted at 45 ports, not "43" as stated in the report.

Now on p. 24.

- Page 48 has the words "supposed to" included in the description of the steps involved in maintaining an account. Including the phrase "supposed to" reduces clarity, and therefore should be omitted from the sentence.

Now on p. 36.

- Page 72, "…Customs will implement a formal set of trade surveys to stay attuned to customer perceptions and attitudes…." We are not aware of any office undertaking a formal set of trade surveys. Customs will include "improve customer satisfaction rating" as one of the agency GPRA measures in the Customs Strategic Plan. To support the strategic plan currently under development, the trade compliance section includes an RFP to be secured in FY 2000 with a baseline to be established in 2001.

GAO Contacts and Staff Acknowledgments

GAO Contacts

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Acknowledgments

In addition to the persons named above, James Bancroft, Gretchen Bornhop, Carla Brown, Michael Kassack, Sidney Schwartz, Barry Seltser, Michele Tong, and Bonita Vines made key contributions to this report.

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