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Report to the Chairman
Subcommittee on Trade
Committee on Ways and Means
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U.S. CUSTOMS SERVICE

OR&R Needs to Resolve Timeliness and Data Problems Involving Headquarters Rulings

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

Dear Mr. Chairman:

This letter responds to your request that we examine the timeliness with which the U.S. Customs Service Office of Regulations and Rulings (OR&R) issues rulings on such things as the proper classification and valuation of imported goods. OR&R issues rulings to advise importers of Customs regulations and assist importers in making marketing and pricing decisions. In March 1997, we testified before your Subcommittee that OR&R (1) had not met its timeliness requirements as established in a 1989 directive on classification rulings; (2) was not aware of whether it had met its timeliness requirement because it was not using its automated database—the Legal Case Inventory System (LCIS)—to control the timeliness of rulings, and (3) had not consistently applied its own guidance for measuring timeliness, thereby rendering LCIS data inaccurate. We also testified that delayed rulings regarding such things as the proper classification of goods can negatively affect importers, particularly those importing seasonal goods, holiday items, or merchandise subject to fashion trends and fads.[1] In fiscal year 1999, the value of goods entering the United States was over $977 billion.

For this report, our objectives were to (1) determine OR&R's response time for issuing headquarters rulings on imported goods and, if delays occurred, reasons why they occurred, and (2) examine whether LCIS is an effective tool for measuring the timeliness of OR&R's headquarters rulings. As agreed with your office, we focused on prospective rulings—those requested by an importer on goods that are proposed for entry into U.S. markets—that were (1) completed by OR&R's headquarters office in Washington, D.C., and (2) opened and closed by OR&R between January 1, 1997, and October 26, 1999, covering the classification, valuation, marking,

[1] U.S. Customs Service: Office of Regulations and Rulings Has Yet to Establish Performance Measures (GAO/T-NSIAD-97-115, Mar. 7, 1997).

and drawbacks of imported goods.[2] Although OR&R processes most of its rulings in its New York office, our work focused on the more complicated headquarters rulings that are expected to take longer than 30 days to complete.

Results in Brief

OR&R headquarters did not issue the majority of its prospective rulings in a timely manner. Our review of a random sample of 70 hard-copy case files representing approximately 610 rulings showed that about two-thirds of the rulings that were requested and issued between January 1, 1997, and October 26, 1999, were not completed within OR&R's 120-day benchmark for those rulings. We estimated that about 16 percent of the rulings took longer than 365 days to process and issue. Available records and discussions with OR&R officials did not always enable us to determine why OR&R's turnaround time exceeded 120 days, but some rulings may have taken longer to issue than the benchmark time frame because (1) OR&R sent the product to a laboratory for analysis or obtained additional information or (2) the request was not properly handled by OR&R or the requesting importer. OR&R acknowledged problems with the timeliness of headquarters rulings, and attributed many of these problems to staffing shortages and competing workload demands.

Although OR&R uses LCIS to track the progress of its prospective rulings, LCIS is not an effective tool for measuring the timeliness of headquarters rulings because it does not contain accurate and reliable data. Our comparison of data from the hard-copy case files with data on those files in LCIS showed that most of the cases had missing or incorrect data in LCIS. We were not always able to determine why LCIS data were inaccurate, but factors that affected accuracy included data entry errors and differences in the way OR&R staff interpreted guidance for data entry and used the system to track cases. In the past, OR&R has acknowledged problems with LCIS and, in May 1998, redesigned the system and revised system guidance. However, problems with LCIS continue because, in addition to the previously cited factors, users cannot readily distinguish between different types of cases, such as prospective rulings and internal advice memorandums, among other problems.

This report contains recommendations to the Assistant Commissioner, OR&R, regarding actions needed to address problems with LCIS data and

[2]Classification rulings involve the classification of goods within the U.S. Harmonized Tariff Schedule; valuation rulings involve the valuation of goods; rulings on marking are those concerning country of origin issues, including the clarity of the marking of goods so that buyers can find out where products are made; and drawback rulings are those involving refunds on duties of imported merchandise when they are subsequently exported.

improve OR&R's performance. In commenting on a draft of this report, Customs officials discussed actions they intend to take to implement each of our recommendations. While most of the actions proposed by Customs appear to be steps in the right direction, they may not fully resolve the timeliness and data problems addressed in this report.

Background

The U.S. Customs Service is a key agency for enforcing the nation's trade laws and policies, including collecting duties on imported merchandise. OR&R plays an important role in carrying out Customs' trade mission by providing legal and technical support for payment of duties to Customs officers at the ports and at headquarters, and guidance to the trade community on Customs regulations and related laws.

OR&R carries out its principal mission by (1) drafting regulations implementing U.S. trade laws; (2) issuing rulings on the proper classification, valuation, and marking of imported goods in response to requests from importers and others; and (3) providing guidance to the trade community and other Customs units on their compliance duties under Customs regulations and related laws. OR&R informs the trade community through various mechanisms, including rulings, that establish the duty an importer will pay.[3] These rulings advise importers on how they can stay in compliance with Customs laws and help them make marketing and pricing decisions by providing information on the cost of importing their goods. For example, OR&R's prospective classification rulings give both the requesting importer and importers of similar goods vital information to help them determine the amounts of the duties and fees they will be charged when they eventually enter their merchandise at a port. Customs established a Web site to disseminate information on completed rulings to the trade community, and Customs officers at any port will accept the merchandise under the classification contained in the ruling. Importers can use duty information to help decide whether to import a new line of merchandise.

Under the Customs Modernization and Informed Compliance Act of 1993 (title VI of P.L. 103-182), responsibility was shifted from Customs to importers for ensuring that shipments are in compliance with Customs' classification, duty, and reporting requirements.[4] Because of this additional responsibility, importers are relying more than ever on OR&R's

[3]According to OR&R, it also informs the trade community through compliance publications, a valuation encyclopedia, and an Internet Web site.

[4] Informed compliance attempts to maximize importers' voluntary compliance with Customs laws and regulations by keeping them clearly and completely informed of their legal obligations.

rulings and educational activities. Under the act, importers are expected to use reasonable care to enter, classify, and value imported merchandise and submit any information necessary for Customs to properly assess duties.

OR&R is headed by an Assistant Commissioner and has offices in Washington, D.C., and New York. Its staff of about 250 consists mainly of attorneys and specialists in commodity classification. ORR has about 125 staff at headquarters, about 86 of whom, as of October 1999, were attorneys.[5] OR&R also has about 125 staff in the New York Office, approximately 100 of whom were national import specialists, often called commodity specialists by OR&R. For fiscal year 1999, out of Customs' total budget of about $2 billion, OR&R's budget was almost $20 million. OR&R issued about 12,600 rulings in fiscal year 1999, most of which were relatively routine classification cases that, according to OR&R officials, usually take 30 days or less to process out of its New York office. OR&R's headquarters office in Washington, D.C., processes more complicated cases that are expected to take longer than 30 days to complete. Headquarters issued 1,260 rulings for fiscal year 1999, including those that (1) provided advice to internal customers, such as Customs ports-of-entry; (2) reconsidered or revoked existing rulings; and (3) were requested by external customers, such as importers. As mentioned earlier, our review focused on the latter category— rulings requested by importers. (See appendix I for additional information.)

LCIS and Ruling Timeliness

OR&R uses its automated database, LCIS, to internally track cases, including rulings, pending before OR&R. According to OR&R's LCIS user guide, the system was designed as a management tool and was to serve as the principal means for recording and monitoring the progress and history of individual cases. According to an OR&R official, LCIS was first introduced as a prototype in 1977, and became OR&R's principal case tracking system in 1983. The system has been updated several times, including one upgrade in 1987, during which new data fields and new categories of codes were added, and another in 1998, during which LCIS was modified to track staffs' non-case time, such as that devoted to training and responding to Freedom of Information Act (FOIA) requests, as well as drafting regulations. Although LCIS was originally intended as an internal database, since 1998, OR&R has used it for additional purposes, such as for providing information to the Department of Treasury and

[5] According to OR&R, the number of headquarters attorneys was 80 as of August 2000. In its comments, the Customs Service stated that the rulings discussed in this report are processed by approximately 40 attorneys in 4 branch offices at headquarters.

Congress, as well as providing information on completed rulings to the trade community on Customs' Web site.

A 1989 Customs directive entitled Expansion of the Binding Classification Rulings Program states that LCIS will be the backbone for controlling the timeliness of rulings. This directive, which applied solely to classification rulings, stated that, among other things, rulings that were referred to OR&R headquarters—that is, those that were deemed the most complex and sensitive—were to be issued within 120 days of the date of receipt by the Customs Service. The directive went on to say that a ruling may be delayed for only one of two reasons—a laboratory analysis is required, or OR&R needs to consult with others.

Although OR&R does not have a directive concerning the other types of rulings headquarters processes, it does maintain the 120-day benchmark extended to all rulings. In fact, OR&R uses the 120-day benchmark when it communicates with importers about rulings they have requested. Specifically, when OR&R attorneys receive a request for a ruling, they can use a form letter to tell importers that they will make every endeavor to complete their review and prepare a response within 120 days of receipt.

Scope and Methodology

To meet our objectives, we did our work at OR&R's headquarters in Washington, D.C. As agreed with your office, we focused on prospective rulings—those requested by an importer on goods that are proposed for entry into U.S. markets—that were (1) completed by OR&R's headquarters office in Washington, D.C., and (2) opened and closed by OR&R between January 1, 1997, and October 26, 1999, covering the classification, valuation, marking, and drawbacks of imported goods.

To determine OR&R's response time to requesters' rulings processed by OR&R headquarters, we conducted a hard-copy file review of a random sample of 192 rulings opened and closed between January 1, 1997, and October 26, 1999.[6] The 192 rulings represented a population of 1,650 cases that were opened and closed, and entered into LCIS, during this period. Of these 192 cases, 70 were requests by importers for prospective rulings on classification, valuation, marking, or drawback issues. These 70 cases represented about 610 prospective rulings that were opened and closed

[6] We conducted some preliminary analysis of LCIS, but we resorted to a hard-copy file review because the system did not distinguish between cases involving importers' requests for prospective rulings and other types of cases.

during the period.[7] Because hard-copy files did not always contain the date OR&R received the importer's request—the date OR&R is supposed to use to measure against its 120-day benchmark—we used the date of the requester's letter to OR&R as our base line for measuring timeliness. Based on the data that were available in the files, we estimated that the difference between when the importer dated the letter and when it was received by OR&R was, on average, 5.5 days.[8] This difference does not materially affect our results.

To assess whether LCIS is an effective tool for measuring the timeliness of OR&R's headquarters rulings, we compared data from the hard-copy case files with data about those cases that had been entered into LCIS. Customs supervisors verified all data we collected from the file review and answered questions about any discrepancies we found between the hard-copy file review and LCIS data. In addition, we interviewed OR&R officials, including OR&R's Special Assistant to the Assistant Commissioner; the Director, Operational Oversight; the LCIS Systems Administrator; and OR&R supervisors. Appendix I discusses our objectives, scope, and methodology in greater detail and provides information about our sampling. We did our audit work between August 1999 and July 2000 in accordance with generally accepted government auditing standards.

We requested comments on a draft of this report from the Customs Service. Customs' comments are discussed near the end of this letter and are reprinted as appendix II. Customs also provided technical comments that were incorporated in the report.

OR&R Headquarters Did Not Issue the Majority of Prospective Rulings Within Its Timeliness Goal

OR&R headquarters did not issue the majority of prospective rulings in a timely manner. Our review of a random sample of 70 hard-copy case files, representing approximately 610 rulings showed that about two-thirds of the rulings that were requested and issued between January 1, 1997, and October 26, 1999, were not completed within OR&R's 120-day benchmark for those rulings. We estimated that about 16 percent of the rulings took longer than 365 days to process and issue.

[7] Because our estimate of the number of prospective rulings is based on a sample, the number is subject to sampling error. In this instance, the estimate of 610 prospective rulings is surrounded by a 95 percent confidence interval that extends from about 504 to 716 rulings.

[8] The estimate of 5.5 days is based on 66 of the sampled 70 rulings for which both dates were available. This estimate is surrounded by a 95 percent confidence interval that extends from 3.8 to 7.2 days.

Table 1 shows our estimates of the time it took to complete the estimated 610 cases from the date of the letter requesting the ruling to the time OR&R issued its ruling. Approximately one-third of the rulings were issued within OR&R's goal for timeliness of 120 days or less. Approximately one-third took between 121 days and 199 days to process, and about one-third were completed in 200 days or more.

Table 1: Estimate of the Timeliness of Prospective Ruling Cases Opened and Closed Between January 1, 1997, and October 26, 1999

Number of days in process[a]	Percentage
120 days or less	33%
121-199 days	31
200-365 days	20
366 days or more	16
Total	**100%**

[a]Our analysis covers time from the date of the importer's letter to the date OR&R issued the ruling. We used the date of the importer's letter because OR&R files were not always clear as to when the letter was received by OR&R. Based on our analysis of available data in case files and discussions with OR&R staff, we estimated that the average delay between when the letter was sent by the importer and when it was received by OR&R was about 5.5 days. This difference does not materially affect our results. The estimate of 5.5 days is based on 66 of the sampled 70 rulings for which both dates were available. This estimate is surrounded by a 95 percent confidence interval that extends from 3.8 to 7.2 days.

The estimates of percentages in this table are based on a random sample of 70 prospective rulings and are subject to sampling error. The 95 percent confidence intervals for the estimates vary but are not greater than 12 percentage points higher or 11 percentage points lower than the estimate.

Source: GAO analysis of a random sample of 70 OR&R case files representing about 610 cases.

OR&R's case files did not always indicate why OR&R took more than 120 days to process importers' requests for prospective rulings. However, we estimated that, in about 36 percent of the cases that exceeded the 120-day benchmark, OR&R either had to send the product to a laboratory for analysis or needed to consult with others, such as the importer or the importer's attorneys, before it could issue the ruling. We noted that, in some of these cases, the delay did not seem to be influenced by the need to send the product to a laboratory or to gather additional information. For example, an importer requested that OR&R issue a ruling about the proper classification of white paper. About 7 weeks later, OR&R received the results of a sample of the paper that had undergone a laboratory test. OR&R issued the ruling 294 days after the importer wrote the request, and 243 days after it received the results of the lab test.

In other cases, it appeared that the laboratory analysis or information gathering could have influenced the delay. For example:

- An importer requested a ruling on the proper classification of women's shoes. About 5 months later, OR&R received additional information necessary for the issuance of the ruling from the importer's attorney.

OR&R issued the ruling 181 days after the importer wrote the request letter, and 29 days after the additional information was received.

- Another importer requested a ruling on the proper classification of Hanukkah lights. About 5 months later, OR&R obtained additional information to complete the ruling. OR&R issued the ruling 175 days after the request letter was written, and 6 days after the additional information was received.

We also noted that some rulings were not timely because of delays on the part of OR&R and/or the importer. For example:

- In one instance, an importer's original request was sent to OR&R's New York Office. Once it was determined that OR&R headquarters should handle the request, New York did not send it to OR&R headquarters in a timely manner. Rather than within the required 30 days, the request was sent 5 months later. The ruling was issued 199 days after the request letter was written.
- In another instance, an importer wrote Customs to apologize for his delay in not getting back to Customs with information needed to complete the ruling. The importer sent OR&R the information approximately 11 months after he wrote the request for the ruling. The ruling was issued 366 days after the request was written, and 32 days after OR&R received the additional information necessary to issue the ruling.

OR&R Officials Attributed Timeliness Problems to Limited Staffing and Competing Work Priorities

The Special Assistant to the Assistant Commissioner of OR&R and the Director, Operational Oversight, told us that two key factors—limited staffing resources and competing work priorities—contributed to OR&R's inability to issue headquarters rulings in a timely fashion. With regard to limited staffing resources, they said that OR&R has had problems hiring and retaining attorneys in its headquarters office because many attorneys are recruited by private-sector firms offering higher salaries than those in the federal government. As of October 1999, 86 attorneys were assigned to OR&R headquarters. By June 2000, 14 attorneys had left OR&R, and 6 replacements had been hired.

With regard to competing workload demands, OR&R officials told us that the organization has had to adjust to changes in OR&R responsibilities. As a result, more and more of the time that used to be devoted to developing rulings is now being devoted to other tasks and responsibilities. They said that, whereas OR&R attorneys used to focus most of their efforts on rulings, as of fiscal year 1999, they spent less than half of their time on them. In fact, an OR&R report for fiscal year 1999 showed that 55 percent of OR&R attorneys' time is spent on other activities, such as providing

guidance and training to its internal and external customers and drafting regulations. For example, OR&R attorneys provided field and headquarters support on such matters as penalties, intellectual property, and FOIA requests. They also assisted the United Nations, the State Department, and the World Trade Organization in developing international agreements and training foreign customs officers, prepared educational pamphlets on informed compliance, provided numerous educational seminars and panels, and created educational videos for importers and U.S. and foreign customs officers.

OR&R has acknowledged that it has had problems in processing headquarters rulings in a timely manner. In a written response to questions from the Senate Finance Committee dated May 13, 1999, OR&R stated that it was proud that it was able to complete the bulk of its rulings—those to be processed in 30 days by its New York office—in a timely fashion. However, OR&R said that its goal to process headquarters rulings in 120 days was frequently not met. OR&R acknowledged that improvements in timeliness would be desirable, but stated that timeliness problems were the result of the aforementioned staffing problems and competing work priorities.

Trade Community Expressed Concerns About the Timeliness of Headquarters Rulings

OR&R's acknowledgment of a timeliness problem has done little to stem the concerns of the trade community. In January 2000, the Subcommittee on OR&R of the Commercial Operations Advisory Committee (COAC), a private sector group composed of those affected by Customs' operations, issued a report on the structure, staffing, and performance of OR&R.[9] The Subcommittee analyzed OR&R data for the fiscal year ending September 1999, and found that the average times for issuing headquarters rulings were not short enough to accommodate the needs of businesses seeking (1) advice in advance of importation or production or (2) resolution of disputes with Customs over the treatment of imports. COAC recommended that OR&R's diminished resources and increased workload should be addressed through budget increases and reassignment of other responsibilities. In addition, COAC stated that Customs should

- explore ways to reduce the number of requests made of it,
- explore more efficient ways to issue headquarters rulings, and
- institutionalize a system that measures performance and establishes targets to be achieved through its performance plan.

[9] COAC is an advisory committee sponsored by the Treasury Department.

The Special Assistant to the Assistant Commissioner, OR&R, told us that OR&R has not responded formally to COAC's recommendations because it was not asked to do so. However, he said that he would expect that OR&R would continue to take the position that factors beyond OR&R's control—staffing problems and competing work demands—were the key factors that affect the timeliness of headquarters rulings. In August 2000, the Special Assistant to the Assistant Commissioner told us that the COAC Subcommittee continued to be concerned about the timeliness of headquarters rulings and planned to further discuss OR&R's headquarters timeliness during a September 2000 meeting.

LCIS Is Not an Effective Tool for Measuring the Timeliness of OR&R Headquarters Rulings

Although OR&R uses LCIS to track the progress of its prospective rulings, LCIS is not an effective tool for measuring the timeliness of headquarters rulings because it does not contain accurate and reliable data. Our comparison of data from the hard-copy case files with data on those case files in LCIS focused on four key dates:

- the "inquiry date"—the date the importer dated the request letter to Customs;
- the "date received"—the date OR&R received the letter, which, according to OR&R procedures, is supposed to be (1) stamped on the correspondence by OR&R when it is received and (2) used by OR&R to measure the timeliness of classification rulings;
- the "assigned" or "adjusted assigned date"—the date OR&R (1) either initially assigned the case to the attorney or received additional information crucial to the case and (2) used to measure its own timeliness; and
- the "date closed"—the date OR&R issued the ruling.

Table 2 shows our estimates of the extent to which key data in LCIS matched, did not match, or were not verifiable with dates in individual hard-copy case files.

Table 2: Comparison of Dates in Hard-Copy Files With Dates in LCIS for Prospective Ruling Cases Opened and Closed Between January 1, 1997, and October 26, 1999

Date	Percent match[a]	Percent no match	Percent not verifiable[b]	Total
Inquiry date	89%	11%	0%	**100%**
Date received	70	24	6	**100**
Date assigned	36	23	41	**100**
Date closed	99	1	0	**100**

Note: The estimates in this table are based on a sample of 70 prospective rulings and are subject to sampling error. The 95 percent confidence intervals for these estimates vary but are not greater than 12 percentage points on either side of the estimate.

[a]We defined a match as any date for which the date recorded in LCIS was within 5 days before or 5 days after the date recorded in the hard-copy file.

[b] Not verifiable means that data were missing from the hard-copy files.

Source: GAO analysis of a random sample of 70 OR&R hard-copy and LCIS case files representing about 610 cases.

We could not always identify the reasons data in LCIS did not match the data contained in the hard-copy files. However, our review of the files and discussions with OR&R officials did provide some insights into why inaccuracies may have occurred. One factor may simply be data entry errors by the individual entering the data and the failure of managers to correct those errors. The Director, Operational Oversight, acknowledged that errors occurred but told us that, when errors are found in LCIS, they are not corrected because OR&R has more important things to do than correct these errors. An OR&R supervisor also acknowledged that errors occurred but said that, if there were a choice between fixing dates in LCIS and working on new rulings, he would work on new rulings.

Another factor may be OR&R's definition of "assigned date" and the ability of OR&R staff to change the "assigned date" in LCIS, thereby erasing the history of the case in LCIS. Currently, OR&R calculates timeliness or "days in process" from the LCIS "assigned date"—the date the case was assigned to an attorney—to the LCIS "closed date"—the date the ruling was issued.[10] As part of this calculation, OR&R officials can consider certain events beyond OR&R's control that could delay the issuance of the ruling, such as a required laboratory analysis or new information affecting the case. Accordingly, OR&R officials can change or adjust the LCIS "assigned date" to reflect a new assigned date (e.g., the date OR&R received the lab analysis or the new information). However, when this occurs, the original "assigned date" is erased from LCIS. This means that the information needed to track the entire history of the ruling using LCIS—from the original assigned date—is lost.

A related problem centers on whether OR&R staff are properly interpreting the definition of "assigned date" and, accordingly, entering the appropriate date. Although some OR&R officials may be entering the new or adjusted "assigned date" when uncontrollable delays occur, others are not. For instance, one supervisor told us that he deliberately did not adjust the "assigned date" date so that he could track the history of a case from the point when it was originally assigned to an attorney, rather than from when a laboratory test result was received.

Another factor may be the differences in the ways various OR&R officials generally enter data into LCIS. We found, for example, that, in some

[10] According to the Assistant Commissioner of OR&R, the "date received" in the first Customs office and the "assigned date" were originally intended to be the same.

instances, cases that had been transferred to headquarters from the Customs office in New York were recorded in LCIS using the "date received" as the date New York received the request. In other cases, the date recorded in LCIS was the date the request was received at headquarters, even though the case was initially received in New York on some other date.

OR&R Has Taken Steps to Enhance LCIS, but Problems Remain

In its Strategic Plan and Objectives for Fiscal Years 1998 and 1999, OR&R articulated a goal to create a joint management/employee working group to, among other things, redesign LCIS so that OR&R could ensure accurate measurement and tracking of tasks. According to the plan, OR&R initiated this effort to carry out its obligation under the Government Performance and Results Act of 1993 (GPRA) and to adopt a more business-like approach consistent with strategic planning initiatives that had been adopted by the Customs Service. In May 1998, OR&R introduced revisions to LCIS that were designed to differentiate between importers' requests for rulings and other types of cases, such as reconsiderations of an existing ruling. However, we found that it is still difficult to distinguish one type of ruling from another.

For example, during the preliminary stages of our review, we attempted to use LCIS to isolate importers' requests for rulings from other types of cases that were contained in LCIS. However, we were unable to do so because many of the codes that OR&R used in the earlier version of LCIS had not been retired. Instead, they were given new labels, and, as a result, we were unable to differentiate between prospective rulings and other types of cases. We had to rely on OR&R's LCIS System Administrator or supervisors to go through the files manually and separate importers' requests for rulings from other products. As a result of this effort, we found LCIS cases that were incorrectly coded. OR&R officials told us that the revised database for the 4-month period beginning May 1, 1998, would be expected to contain errors because of adjustments made during this period. Nonetheless, when we examined 65 cases that were opened after this 4-month adjustment period, we found that 20, or about 31 percent, were incorrectly coded.[11]

OR&R also revised LCIS guidance, but, in some cases, the revisions were inadequate because definitions were either missing or did not include key information that would help staff interpret guidance the same way each time they entered data. For example, OR&R officials responsible for inputting data into LCIS told us that, under the old system, they did not

[11] These 65 cases were a part of our random sample of 192 LCIS cases that is discussed in appendix I.

have to change the LCIS case code when a ruling case was terminated as "administratively closed." However, they said that, under the revised LCIS, they had been orally instructed to recode administratively closed cases as "internal advice memorandums." We examined the new LCIS guidance and found that it did not include a definition of "administratively closed," nor did it contain information on changing codes when closing cases. Thus, individuals who entered data on administratively closed cases using the new guidance, especially those without the benefit of the same oral instructions, ran the risk of not entering the appropriate code when terminating a case.

OR&R officials told us that they did not take steps to ensure that new codes were systematically applied by OR&R staff. Although OR&R established a team of supervisors to monitor the database, team members reported to us that the monitoring program was put on hold because, among other things, the team members had neither the time nor the resources to carry out the program.

Conclusion

Our review found that OR&R continues to have significant problems issuing the majority of headquarters rulings within the 120-day goal it has set as a benchmark for issuing timely rulings. Specifically, our review showed that about two-thirds of the approximately 610 prospective rulings that were requested by importers and issued between January 1, 1997, and October 26, 1999, were not completed within OR&R's 120-day benchmark for those rulings. OR&R files on individual rulings did not always show why delays occurred, but it appears that a variety of factors, including the need for additional information when processing rulings and the mishandling of requests by OR&R and its customers, contributed to at least some of these delays. OR&R acknowledged that it has had problems issuing headquarters rulings on a timely basis and attributed these problems to staffing shortages and competing workload demands.

Although OR&R uses LCIS as its primary tool for tracking and monitoring the progress and history of cases and developing reports for Congress, LCIS is not an effective tool for measuring timeliness of headquarters rulings because data in the system are not reliable and accurate. OR&R has initiated some steps to correct problems with LCIS so that it can more accurately measure and track cases that are entered into LCIS. However, OR&R's revisions did not correct the problems they were designed to fix, and many of the errors that occurred before OR&R made the changes continue to plague the system.

Given that OR&R uses LCIS as a management tool and to provide information to Congress and other stakeholders, it is especially important that the system contain data that are accurate and reliable. More accurate and reliable data would provide greater assurance that the LCIS-based information OR&R provides to stakeholders—Congress, the Department of Treasury, and the trade community—is accurate, meaningful, and credible. It would also give OR&R a basis for evaluating the time needed to develop and complete rulings and enable it to systematically establish formal benchmarks for measuring the timeliness of all types of rulings. This is consistent with the performance and results based standards of GPRA. Formal benchmarks would also facilitate better communication with importers that request rulings because, by consulting these benchmarks, they would have more realistic expectations about when OR&R could reasonably be expected to complete a particular type of ruling.

Recommendations

We recommend that the Assistant Commissioner, OR&R, take steps to

- modify LCIS to enable the system to record and retain key data so that managers can more readily monitor and track the history of cases;
- provide clear and complete guidance to ensure that staff that use LCIS understand and consistently interpret the guidance, as well as train staff on any modifications to LCIS;
- establish an ongoing LCIS monitoring system to ensure the quality and integrity of the data entered and maintained in the system;
- evaluate data on the timeliness of headquarters rulings; and
- establish reasonable goals, benchmarks, and performance measures for improving OR&R's performance.

Agency Comments and Our Evaluation

In written comments on a draft of this report dated August 7, 2000, Customs discussed actions it proposed to take to implement each of our recommendations (see appendix II). While most of the actions proposed by Customs appear to be steps in the right direction, we have concerns that they may not fully resolve the timeliness and data problems addressed in this report. Specifically, with respect to our recommendation that LCIS be revised to record and maintain key data, Customs officials stated that LCIS will be modified to either calculate process duration using "date of inquiry" and "date closed" or "standardize entry requirements for existing fields." Although it is ultimately Customs' responsibility to decide which dates to use to measure timeliness and manage headquarters rulings, both actions, especially if taken together, could be viewed as steps toward ensuring that Customs has more accurate LCIS data. However, in our view, Customs managers would be better positioned to monitor and track

the histories of headquarters cases if LCIS retained key interim dates, such as the "date assigned."

With respect to our recommendation concerning the clarity and completeness of LCIS guidance and training on modifications to LCIS, the steps proposed by Customs appear to be a reasonable starting point toward helping staff understand their responsibility toward consistently interpreting the guidance. However, it may also be advantageous to provide training to all employees—not just new employees—who enter data into LCIS so that each employee has a common understanding of LCIS data requirements. Regarding our recommendation to establish an ongoing LCIS monitoring system to ensure the quality and integrity of data entered and maintained in LCIS, Customs said it would (1) establish a series of data edits to prevent users from, among other things, entering nonexistent or expired codes, and (2) change some of the LCIS reports to better identify data integrity issues. While data edits could enhance the accuracy of LCIS data and changes to reports could provide additional information on data integrity problems, neither of these actions constitute an ongoing monitoring effort that would help OR&R systemically identify and resolve data quality and integrity problems.

With respect to our recommendation that OR&R evaluate data on the timeliness of headquarters rulings, Customs stated its intent to use LCIS reports on timeliness for certain monthly meetings, managers' performance appraisals, and the agency wide self-inspection program. While this might focus management attention on the timeliness of headquarters rulings, a formal evaluation of ruling timeliness could help assure that (1) the underlying causes for ruling delays are fully assessed and (2) the most appropriate corrective actions are taken. This evaluation could also set the framework for establishing goals, benchmarks, and ultimately, performance measures.

In response to our recommendation that OR&R establish reasonable goals, benchmarks, and performance measures for improving OR&R's performance, Customs stated that it intends to revise the directive on rulings to reflect the reorganized rulings program and incorporate realistic time frames. Although these actions might better communicate to the trade community the time Customs takes to develop and complete rulings, they do not address the overall issue of improving OR&R's performance. By establishing the aforementioned goals, benchmarks, and performance measures, OR&R would then be better positioned to (1) measure its timeliness against standards with a view toward improving its overall

performance and (2) enhance its responsiveness to the timeliness concerns expressed by the trade community.

In addition, Customs commented that the title and initial pages of our draft report were misleading because they suggested that the problems identified in this report were "global problems," not headquarters rulings that were the subject of our review. Customs also commented that our review was distorted because the scope of the work did not include (1) rulings issued by OR&R's New York office, which, according to Customs, issues 90 percent of OR&R rulings within 30 days, and (2) the percentage of headquarters work devoted to non-rulings.

We have revised the title and other sections of the report to further clarify that our work and the problems we identified pertain to headquarters rulings. With respect to the scope of our work, we focused on headquarters activities because, according to OR&R, these ruling are more complex to process and because headquarters activity was the main interest of our requestor. We agree, as Customs' comments pointed out, that the timeliness of the more routine rulings processed by OR&R's New York office was beyond the scope of our review. Therefore, we cannot confirm or refute OR&R's claim that most of these rulings were, in fact, processed in the requisite 30 days. Our report focused on the timeliness problems associated with headquarters rulings—problems that both OR&R and the trade community have previously recognized and the same problems that could inhibit OR&R's customers from making timely economic decisions affecting their livelihood.

General Comments

Customs also provided five other comments about particular aspects of the draft report. First, Customs commented that it would have been useful to know what percentage of rulings that took longer than the benchmark were due to delays caused by the requesting importer. As we pointed out in our report, we could not always determine why delays occurred, and we were only able to ascertain the cause for delays when information was available either in the hard-copy files or through discussions with supervisors responsible for the cases. We would hope, however, that any future evaluation of timeliness by OR&R would incorporate an analysis of reasons for delays so that OR&R could better identify internal problem areas and take appropriate corrective actions.

Second, Customs indicated that our statement that "OR&R informs the trade community primarily through its rulings, which establish the duty an importer will pay" was incomplete and stated that it attempts to use means other than rulings to inform the trade community. Although we discussed

some of these other methods in the draft, we have modified the sentence in question and inserted a footnote to clarify that rulings are one of several ways OR&R informs the trade community.

Third, OR&R confirmed that it has a staff of about 250 employees, but commented that we did not discuss the number of attorneys in the particular units responsible for the headquarters rulings. Customs stated that approximately 125 of the 250 employees are located in the New York office, whose activities were not within the scope of our review. For our part, we intended that our discussion of the 250 employees and their roles would provide background and context for the size and composition of OR&R as a whole. Nevertheless, we revised the report to identify the numbers and types of staff located in the headquarters and New York offices. Custom's non-ruling activities were discussed in the report.

Customs fourth comment related to our finding that about 36 percent of the cases that exceeded the 120-day benchmark were cases in which OR&R sent the product to a laboratory or consulted with others. Customs stated that it "seems unfair" to say those rulings exceeded the benchmark, since the directive allows for those types of delays. It is important to reiterate that we were not always able to determine why delays occurred. However, in our report, we provided examples in which some of the delays seemed to be caused by additional information gathering while others did not, even though a laboratory or outside party was consulted in both instances. In any event, we estimate that about two-thirds of the cases in which delays occurred exceeded the benchmark for reasons other than a laboratory analysis or consultation with others.

Fifth, Customs disagreed with our assessment that the entire history of the ruling from the original assigned date is lost when an assigned date is changed. Customs also commented that LCIS was not intended to track the entire history of the ruling. We have changed the text to clarify that our discussion of the history of the case pertains only to LCIS. However, as discussed in our report, OR&R uses LCIS to calculate timeliness and does so from the "assigned date" to the LCIS "closed date." We pointed out that using the "assigned date" becomes problematic from a historical perspective if the "assigned date" can be changed or adjusted based on a particular event. The problem worsens if LCIS data understates delays as a result of these adjustments—which could occur with each subsequent adjustment. Although the original intent of LCIS may have been only to provide data needed by management, it is now used to provide information for Congress and others and therefore should be as accurate and reliable as possible. As previously mentioned, we found the information on

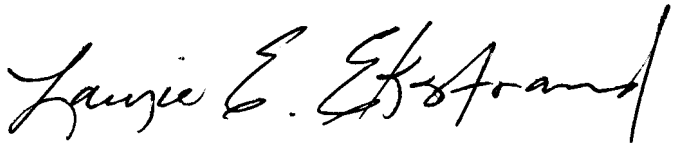
headquarters rulings contained in LCIS was, in many instances, incomplete or inaccurate.

In addition to the above comments, Customs made technical comments related to this report, which we incorporated as appropriate.

As agreed with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of this letter. At that time, we will send copies of the report to Senator William V. Roth, Senator Daniel P. Moynihan, Senator George V. Voinovich, Senator Richard J. Durbin, Senator Ben Nighthorse Campbell, Senator Byron L. Dorgan, Representative Sander M. Levin, Representative Bill Archer, Representative Charles B. Rangel, Representative Jim Kolbe, Representative Steny H. Hoyer, Representative Steve Horn, and Representative Jim Turner in their capacities as Chairman or Ranking Minority Member of Senate and House Committees and Subcommittees. We are also sending copies of this report to the Honorable Jacob J. Lew, Director, Office of Management and Budget; the Honorable Lawrence H. Summers, Secretary of the Treasury; and the Honorable Raymond W. Kelly, Commissioner of Customs. We will also make copies available to others upon request.

The major contributors to this report are acknowledged in appendix III. If you have any questions, please contact me or John F. Mortin, Assistant Director, at (202) 512-8777.

Sincerely yours,



Laurie Ekstrand
Director
Administration of Justice Issues

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Objectives, Scope, and Methodology

Our objectives were to (1) determine the Office of Regulations and Rulings' (OR&R) response time for issuing headquarters rulings on imported goods and, if delays occurred, reasons why they occurred, and (2) examine whether the Legal Case Inventory System (LCIS) is an effective tool for measuring the timeliness of OR&R's headquarters rulings. To meet our objectives, we did our work at OR&R headquarters in Washington, D.C. As agreed with your office, we focused on prospective rulings--that is, those requested by an importer on goods that are proposed for entry into U.S. markets–that were (1) completed by OR&R's headquarters office in Washington, D.C., and (2) opened and closed by OR&R between January 1, 1997, and October 26, 1999, and covered the classification, valuation, marking, or drawbacks of imported goods.

To determine OR&R's response time for issuing headquarters rulings and, if delays occurred, the reasons for those delays, we did a hard-copy file review of a random sample of 192 rulings that were opened and closed at OR&R headquarters between January 1, 1997, and October 26, 1999. The 192 rulings represented a population of 1,650 cases entered into LCIS that we expected to fit our criteria for prospective classification, valuation, marking, or drawback rulings. We used LCIS to draw our original sample and identify individual cases. However, as we examined cases, we determined that we could not use LCIS to measure the timeliness of rulings because we could not readily distinguish between types of cases, such as internal advice memorandums, reconsiderations of existing rulings, and prospective rulings. Therefore, after we selected our original sample, we relied on OR&R's hard-copy files to gather data on headquarters ruling timeliness.[1] However, before collecting data from OR&R hard-copy case files, we asked the LCIS System Administrator or supervisors to confirm that the codes for type of ruling (such as internal advice memorandums and prospective rulings) and category of ruling (such as classification or valuation rulings) in LCIS were correct for the cases in our sample. This verification process provided assurance that the case files we reviewed were rulings as defined by OR&R.

Once we selected our sample, we developed and applied a data collection instrument to review OR&R's hard-copy ruling files. The data collection instrument focused on key variables, such as "type" and "category" of ruling, as well as "inquiry date," "received date," "assigned date," and "date closed." We pretested the data collection instrument prior to initiation of

[1] We originally selected a random sample of 194 cases, but OR&R could not locate hard-copy files for 2 of the cases. Thus, our sample covered 192 cases that were entered into LCIS over the period.

our case file review and revised the instrument accordingly to reflect the information in the files.

After we tested the data collection instrument, our review of OR&R case files proceeded through several phases of data collection and verification. First, we collected data from the case files and copied the relevant information onto our data collection instrument. Second, we verified our review of the case files and the recording of relevant information with the responsible OR&R supervisor. We asked the supervisor to discuss reasons for any discrepancies, to explain data missing from the hard-copy files, and to consider any aspects of the case file contents that may have been overlooked or misinterpreted (e.g., case type, case category, or one or more dates that did not match). After we completed the data collection and verification process, we determined that 70 of the 192 cases actually involved prospective classification, valuation, marking, or drawback rulings that could be analyzed.[2] On the basis of this analysis, we estimate that OR&R processed approximately 610 similar cases during the time period under study. (Because this estimate is based on the sample results, the estimate of 610 cases is surrounded by a 95 percent confidence interval that extends from approximately 504 to 716 cases.)

Next, we measured OR&R's timeliness using the 120-day benchmark OR&R had established for measuring the timeliness for headquarters rulings. Because hard-copy files did not always contain the date OR&R received the importer's request—the date OR&R is supposed to use to measure against its 120-day benchmark—we used the date the requester sent the letter to OR&R ("inquiry date") as our base line for measuring timeliness. Based on the data that were available in the files, we estimated that the difference between when the date the importer dated the letter and when it was received by OR&R was, on average, 5.5 days.[3] This difference did not materially affect our results.

To assess whether LCIS is an effective tool for measuring the timeliness of OR&R's headquarters rulings, we compared data from the 70 hard-copy case files with data from those cases that had been entered into LCIS. We defined a match as any date for which the date recorded in LCIS was

[2]While reviewing the 192 cases, we found 1 additional case that was a prospective ruling that fit our criteria. Thus, we determined that 71 cases were prospective rulings. However, after we collected and recorded the data from the hard-copy file, and before we asked the supervisor to verify our recordation, OR&R misplaced the file and could not find it for the verification process. As a result, we did not include this case in our ruling sample.

[3] The estimate of 5.5 days is based on 66 of the sampled 70 rulings for which both dates were available. This estimate is surrounded by a 95 percent confidence interval that extends from 3.8 to 7.2 days.

within 5 days before or 5 days after the date recorded in the hard-copy file. We did this because OR&R officials reported to us that the dates in the hard-copy and LCIS files were often off by a few days due to the time it took to enter data in LCIS. As mentioned earlier, Customs supervisors verified all data we collected from the file review and answered questions about any discrepancies we found between the hard-copy file review and LCIS data.

In doing our work, we also interviewed key OR&R officials about their use of LCIS, changes to the database over time, definitions of fields in the database, and problems with the database. We also reviewed pertinent documents, such as a 1989 Customs directive regarding classification ruling decisions, and LCIS guidance, including documentation on components of the system, how data is coded and entered into the system, and the relevant coding schemes for rulings.

Because we followed probability selection procedures to draw our random sample of rulings, our sample is only one of a large number of samples that we might have drawn. Since each sample could have provided different estimates of the characteristics of the rulings, we express our confidence in the precision of our particular sample's results as a 95 percent confidence interval. This is the interval that would contain the actual population value for 95 percent of the samples we could have drawn.

We also interviewed OR&R officials, including the Special Assistant to the Assistant Commissioner; the Director, Operational Oversight; the LCIS System Administrator; and OR&R supervisors, to discuss OR&R performance measures and the reasons why most rulings were taking more than their benchmark of 120 days. Furthermore, we discussed OR&R's efforts to improve its ability to measure Customs' response time to importers' requests for rulings, and we also reviewed relevant reports on OR&R and OR&R operations, including our previous testimony and a report on OR&R prepared by the Commercial Operations Advisory Committee (COAC).

We did our audit work between August 1999 and July 2000 in accordance with generally accepted government auditing standards.

We requested comments on a draft of this report from the Customs Service. Customs' comments are discussed near the end of the letter and are reprinted as appendix II. We made changes in the report as appropriate.

Comments From the U.S. Customs Service

U.S. Customs Service

Memorandum

DATE: August 7, 2000

FILE: AUD-1-OP MD

MEMORANDUM FOR LAURIE EKSTRAND
GENERAL ACCOUNTING OFFICE

FROM: Director,
Office of Planning

SUBJECT: Draft Audit Report entitled "U.S. Customs Service: OR&R Should Resolve Timeliness and Data Problems "

Thank you for providing us with a copy of your draft report entitled "U. S. Customs Service: OR&R Should Resolve Timeliness and Data Problems" and the opportunity to discuss the issues in this report.

See p. 16.

We believe that the title and initial pages of the report are misleading. The title suggests that the timeliness of rulings and the integrity of data in the LCIS are global problems in the Office of Regulations and Rulings when in reality, only the rulings issued by Headquarters were reviewed for this audit. If the intent of the review was only to evaluate Headquarters rulings, the title should be modified to ensure a more accurate description of the report (i.e. "U.S. Customs Service: OR&R Should Resolve Timeliness and Data Problems with their Headquarters Rulings").

See p. 16.

We also believe that the study is not representative of the body of work performed by OR&R, especially with respect to its rulings program, since the scope of the audit was strictly limited to rulings only issued by Headquarters. As OR&R's New York office issues 90 percent of the total number of OR&R rulings and does so within 30 days, without including them, or the percentage of HQ work devoted to non-rulings, the GAO study is distorted.

Detailed comments on the report's recommendations along with general and technical comments are attached.

TRADITION ★ SERVICE ★ HONOR

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If you have any questions regarding these comments, please contact Ms. Brenda Brockman at (202) 927-1507.

William F. Riley

Attachment

U. S. Customs Service

Comments on GAO Draft Report "U.S. Customs Service: OR&R Should Resolve timeliness and Data Problems"

Bullet 1

Modify LCIS to enable the system to record and retain key data so that managers can more readily monitor and track the history of cases.

Comment:

See pp. 14-15.

LCIS either will be modified to (1) use the date of inquiry (the date of the incoming request letter) and the date closed (the date of our written response) for the purpose of calculating the number of days in process for rulings, or (2) standardize entry requirements, but leave the fields as they are.

Bullet 2

Provide clear and complete guidance to ensure that staff that use LCIS understand and consistently interpret the guidance as well as train staff on any modifications to LCIS.

Comment:

See p. 15.

The LCIS Committee will be directed to review and re-write the LCIS User Guide, as appropriate. They will report any changes at the monthly Branch Chiefs meetings. All Branch Chiefs will discuss the findings in the GAO report with their individual Branches. The Director, OOD, will ensure that all new employees receive immediate training on LCIS.

Bullet 3

Establish an ongoing LCIS monitoring system to ensure the quality and integrity of the data entered and maintained in the system.

Comment:

See p. 15.

In cooperation with OIT, we propose to establish a series of data edits into LCIS that would prevent users from entering either non-existent codes, expired codes or incorrect type/code combinations, based on the

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LCIS User Guide. We would also change some of the LCIS reports to better identify data integrity issues.

Bullet 4

Evaluate data on the timeliness of headquarters rulings.

Comment:

See p. 15.

We will incorporate LCIS reports on the timeliness of rulings into the monthly Branch Chiefs meetings and into both the mid-term review and annual performance appraisal process for both Branch Chiefs and Division Directors. We will also incorporate this into our Self-Inspection Program.

Bullet 5

Establish reasonable goals, benchmarks, and performance measures for improving OR&R's performance.

Comment:

See pp. 15-16.

We will revise the directive on rulings to reflect the reorganized rulings program and to incorporate realistic time frames.

General Comments on the Draft Report

Now on p. 2.

See p. 16.

Page 3, first paragraph: The report states that "some rulings may have taken longer than the benchmark because...(2) the request was not properly handled by OR&R or the requesting importer." It would have been useful to know what percentage was caused by the requesting importer. Without that information, the statement is misleading.

Now on p. 3.

See pp. 16-17.

Page 5, second paragraph: The report states that "OR&R informs the trade community primarily through its rulings, which establish the duty an importer will pay." For several years, Customs, and OR&R in particular, has tried to inform the trade community through a variety of programs other than rulings. These include 55 Informed Compliance Publications, a Valuation Encyclopedia and the Internet website.

Now on p. 4.

See p. 17.

Page 6, last paragraph: The report states that OR&R has about 250 employees and that its staff consists "mainly of attorneys and specialists in commodity classification." While OR&R does have a total staff of about 250 at HQ an in NY, a combined total of only 25-28 attorneys are in the

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two HQ Classification and Special Classification and Marking branches, while another combined total of 12-15 attorneys are in the HQ Value and Duty Determination and Refund branches, the only branches whose work GAO reviewed. The work of the approximately 125 commodity specialists in New York was not included in the study. New York issues the vast majority of OR&R rulings (about ten times as many as HQ) and does so within 30 days. Without including the New York office, or the percentage of HQ work devoted to non-rulings, the GAO study is distorted.

Now on p. 7.

See p. 17.

Page 12-13: The study indicates that 33% of the cases were issued within the 120-day benchmark. It then says that in 36% of the cases which "exceeded the 120 day benchmark," OR&R had to send the product to the labs or consult with others, such as the importer before issuing the ruling. Since the directive, which set the 120 benchmark figure, allows delays for these purposes (see page 8 of the draft GAO report) it seems unfair to say that these rulings "exceeded the benchmark."

Now on p. 11.

See pp. 17-18.

Page 20, first paragraph: The report states (in referring to changed "assigned dates") that "[t]his means that the information needed to track the entire history of the ruling—from the original assigned date—is lost." This is incorrect. LCIS will still show the "inquiry date" and "date received," and the time sheets will show all the case activity. LCIS is not intended to track the entire history of the ruling, only provide data needed by managers. Case histories (phone calls, meeting requests, etc) are tracked manually on the history sheets and to limited extent in the "comments" fields in LCIS.

Technical Comments:

Corrections made; see pp. 2-14.

Page 4, line 14: The title should be "Assistant Commissioner," not Director, OR&R
Page 11, line 8: The title "Assistant Director" is incorrect. It could be referring to the "Assistant Commissioner," although he was not interviewed except at the opening conference. It may also refer to the Special Assistant to the Assistant Commissioner who was interviewed. The Director, "Oversight Operations" should be "Operational Oversight."
Pages 14 and 17: "Assistant to the Director of OR&R should be "Special Assistant to the Assistant Commissioner."
Pages 14 and 19: The Director, "Oversight Operations" should be "Operational Oversight."
Page 26, Recommendations: The title should be "Assistant Commissioner"

GAO Contacts and Staff Acknowledgments

GAO Contacts

Laurie E. Ekstrand (202) 512-8777
John F. Mortin (202) 512-8777

Acknowledgments

In addition to those named above, Brenda Bridges, Nancy Briggs, James Fields, Charity Goodman, Mary Catherine Hult, Jan Montgomery, Michelle Sager, and Jerome Sandau made key contributions to this report.

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