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Customs Service

**Comments on The Customs
Modernization and Informed
Compliance Act**

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CUSTOMS MODERNIZATION AND INFORMED COMPLIANCE ACT OF 1991

Summary of Statement by J. William Gadsby
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H.R. 3935 aims to modernize Customs operations by authorizing a National Customs Automation Program (NCAP) for processing imported goods electronically. GAO supports Section 201 of the act. In addition to authorizing much needed automated systems, it provides a useful framework for exercising the congressional oversight to help Customs address certain program and general management problems GAO found that could hinder achieving the NCAP goals of ensuring that all regulations and rulings are administered and enforced in a manner that (1) is uniform and consistent, (2) is minimally intrusive upon the normal flow of business activity, and (3) improves compliance.

The effectiveness of Customs' current trade compliance efforts is questionable. Customs is finding a small and declining percentage of estimated trade law violations in imported cargo--down from about 23 percent in 1988 to about 16 percent in 1991. Further, Customs has not developed the necessary capabilities to assess the enforcement risk of those cargo entries subject to electronic filing and release, which is a key component of NCAP, or the effectiveness of its efforts to detect improper payment of duties and fees and noncompliance with tariff and trade laws. Finally, by conducting an excessive number of random examinations--over 52,000 more than necessary to develop reliable estimates of the number of cargo violations among cargo imports--Customs is not making effective use of its inspection resources.

Customs' trade enforcement problems can be traced to inadequacies in its management practices. Specifically,

- Customs' plans provide neither clear objectives nor implementation strategies,
- Customs has experienced widespread problems in its efforts to monitor and evaluate program performance, and
- Customs' trade enforcement efforts lack effective information systems support.

GAO is recommending that Section 201 be modified to require Customs to develop the performance measures needed to assess progress toward the NCAP goals and to develop estimates of the costs to Customs to bring the components of NCAP on line.

Mr. Chairman and Members of the Subcommittee:

We are pleased to be here to provide our perspectives on H.R. 3935, the Customs Modernization and Informed Compliance Act. This legislation is intended to modernize Customs procedures in a way that will respond to the demands of the 21st century by removing outdated statutory provisions requiring paper documentation and providing authority for full electronic processing of all Customs-related transactions.

Our perspectives are derived from our ongoing general management review of the Customs Service. This testimony focuses on Section 201 of Title II of the act, which would give Customs the legal basis to fully implement the automated systems for processing imported goods electronically that it has been developing over the past several years. These systems are also crucial if Customs is to meet its trade enforcement responsibilities.

Section 201 would establish a National Customs Automation Program (NCAP). It would also establish NCAP goals to ensure that all Customs' regulations and rulings are administered and enforced in a manner that (1) is uniform and consistent, (2) is as minimally intrusive upon the normal flow of business activity as possible, and (3) improves compliance. Further, it would require Customs to develop a plan for NCAP, conduct systems testing, and evaluate systems performance.

We support Section 201. It sets useful goals for Customs operations, authorizes Customs to institute much needed automated systems, and provides a useful framework for exercising congressional oversight. This oversight is needed to ensure that Customs addresses various problems disclosed by our general management review that could hinder accomplishment of NCAP goals. These include questionable effectiveness of Customs trade enforcement efforts as well as management practices related to planning, performance monitoring, and information resources.

EFFECTIVENESS OF TRADE
ENFORCEMENT EFFORTS IS QUESTIONABLE

I would like to first discuss our management review results pertaining to Customs' trade enforcement efforts because they highlight problems that could adversely affect achieving the NCAP goals of improving compliance and minimizing intrusion into normal business activity.

The effectiveness of Customs' current trade enforcement efforts is questionable. Customs is finding a small and declining percentage of estimated trade law violations in imported cargo. Using the random examinations Customs conducts, in part, to assess the risk targeting capabilities of its automated Cargo Selectivity System (CSS), we developed estimates of the total number of violations in imported cargo. Our analysis showed that Customs discovered about 16 percent of the estimated violations

in cargo imported during fiscal year 1991, down from about 23 percent in calendar year 1988 (see chart 1).

Customs also has not consistently evaluated the enforcement risk posed by the electronic filing and release of cargo entries, a key component of the proposed NCAP. Customs' policy is that only low-risk cargo is to be considered for this so-called paperless release. However, when an inspector overrides Customs' automated CSS and inspects paperless cargo, the violation rate is equal to or higher than the rates from inspections of cargo entered with paper documents (see chart 2). Since we briefed Customs on our review results, it has started monitoring violation rates of paperless cargo selected randomly for examination.

Customs also has problems assessing the effectiveness of its efforts to review import documents and detect improper payment of duties and fees and noncompliance with tariff and trade laws and regulations. Although Entry Summary Selectivity (ESS)--the automated system that determines which import documents will be reviewed--has been operating for over 3 years, Customs still does not have the capability to compare entry document review results with the specific criteria prompting the review. This capability is critical to both assessing the effectiveness of selectivity criteria and analyzing violation trends. It is also fundamental to Customs' modernization plans calling for a shift from transaction-by-transaction reviews to greater emphasis on

detecting patterns of noncompliance.

Finally, some current Customs practices may unnecessarily impede the movement of merchandise. Customs conducted nearly 53,000 random cargo examinations in fiscal year 1991, in part to assess the capabilities of CSS, which targets high-risk cargo for examination. From our statistical analysis, we concluded that Customs could significantly reduce the number of random exams it conducts to meet its objectives--perhaps to as low as 400--and still develop reliable estimates of the violations within the universe of cargo imports. Customs could then redirect some of its resources toward improving the targeting capability of CSS. CSS-generated exams lead to violations 7.8 percent of the time, meaning that the great majority of examinations were fruitless for Customs. Improved targeting also could help reduce the trade community's costs in terms of lost time and processing fees.

CUSTOMS' CURRENT MANAGEMENT PRACTICES
MAY INHIBIT MEETING NCAP GOALS

Customs' problems with ensuring compliance and facilitating trade can be traced, in large part, to inadequate management practices. We found that Customs (1) has not developed plans with clear objectives and implementing strategies, (2) has limited capability to monitor program performance, and (3) has not managed information system development properly. These management weaknesses will complicate NCAP implementation.

Plans Do Not Include Clear Objectives and Implementing Strategies

While Customs has initiated a new 5-year planning effort, the initial results did not produce clear objectives and implementation strategies. For example, the stated trade enforcement objective is to "develop the information resources necessary to achieve and support an effective trade and revenue enforcement program, which will include health and safety issues." Nowhere is trade enforcement defined in a way that explains what constitutes good trade enforcement and how to measure progress toward achieving it. Customs has recently formed a task force to develop a trade enforcement strategy.

Also, the 5-year plan does not provide an integrated perspective of Customs' modernization efforts. The plan contains separate objectives for paperless processing, national entry processing, international standardization, commercial service, regulatory audit, and trade enforcement, all of which are relevant to Customs' modernization plans. However, the objectives are not stated in ways conducive to measuring progress toward intended program results, such as improving compliance, applying Customs regulations more uniformly, or minimizing intrusion into the flow of trade. Further, the plan is vague on how the objectives will be achieved. For example, the paperless objective is to "continue development of automated systems to make the transition from paper to an electronic environment." However, the strategy

for this objective does not clearly discuss how these systems will be implemented or the likely time frames for implementation.

Customs officials told us that they are waiting for passage of authorizing legislation before they develop detailed plans and cost estimates. As a result, many questions remain unanswered, including the following:

- When will Customs fix the ESS weaknesses that hamper enforcement?

- Can Customs respond to the diverse interests within the trade community and successfully develop a system for filing import documentation at locations other than the port of arrival (National Entry Processing) while also pursuing full automation of the entry process?

- How soon will the electronic filing of the invoice, which must be available to Customs when goods enter the country, be practicable in terms of both cost to importers and meeting Customs' enforcement needs?

- What impact will NEP have on the geographic distribution of Customs' workforce, particularly import specialists? If Customs chooses to centralize import specialists in a few locations, how will this affect their ability to interact

with inspectors and effectively perform their duties?

-- What will be the costs to Customs and the trade community of bringing the components of the electronic entry filing systems on line?

Limited Capabilities to
Monitor Program Performance

Effective performance measures are fundamental to maintaining accountability for organizational performance toward NCAP goals. However, Customs has experienced widespread problems in its efforts to monitor and evaluate program performance.

Earlier, we noted that Customs is discovering a small and declining percentage of estimated trade violations through its cargo inspection program. However, for those cargo violations it does find, Customs has no institutional standard for measuring their significance. Marking violations--inaccurate representations of required information on imports, such as country of origin--have represented over 60 percent of the violations detected over the past 3 years (see chart 3). However, Customs officials generally agree that marking violations are the least significant.

Customs also cannot adequately monitor the status of penalties assessed against trade law violators, and it lacks a

comprehensive picture of how effectively it is collecting penalties. The automated system used for its penalty program contains incomplete, inaccurate, and outdated information.

Since May 1991, Customs has been developing a management information system to track and monitor program performance for commercial operations. However, this effort may not prove successful because (1) key objectives in the 5-year plan as stated are not measurable, (2) the performance measures being developed are not closely linked to Customs' planning process, (3) Customs does not plan to develop agencywide performance data, and (4) the project is a relatively low priority.

Management of Information Resources
Has Hampered Mission Accomplishment

Customs' efforts over the past decade to develop information systems to support its trade enforcement mission have been poorly focused and mismanaged. Customs' original goals for its Automated Commercial System--of which CSS and ESS are a part--were to increase the efficiency of transaction processing and to support effective trade enforcement. However, Customs did not institute a strategic planning process for managing the agency's information resources. Essentially, Customs focused on developing systems to expedite the release of cargo entering the country and to support individual program needs. Little attention was directed toward developing an agencywide

information system that would support trade enforcement or measure program effectiveness.

Customs also did not adhere to acceptable systems development guidelines. From its initial design of ESS in 1987 until now, Customs has not prepared feasibility studies, risk or cost-benefit analyses, or development/implementation plans. Customs implemented the first phase of ESS without fully testing the system. Consequently, it did not detect several problems that limit the system's utility to import specialists. For example, the system does not readily identify why an import specialist received an entry summary for review. Without this information, an import specialist may not know what needs to be reviewed.

Further, Customs started to deploy the second phase of ESS without correcting the systems problem that prevents achieving the second-phase objective of developing history files on what Customs finds when it reviews high-risk entries. As we said earlier, this is fundamental to Customs' plans to emphasize the detection of patterns of noncompliance. Historical data needed for classification and value reviews will not be readily available for agencywide use by field staff until this operational problem is corrected. As a result, ESS remains of limited value in helping import specialists ensure proper duty payment and compliance with trade restrictions. In response to a GAO draft report on ESS, Customs agreed to correct the system

problems before it is deployed agencywide.

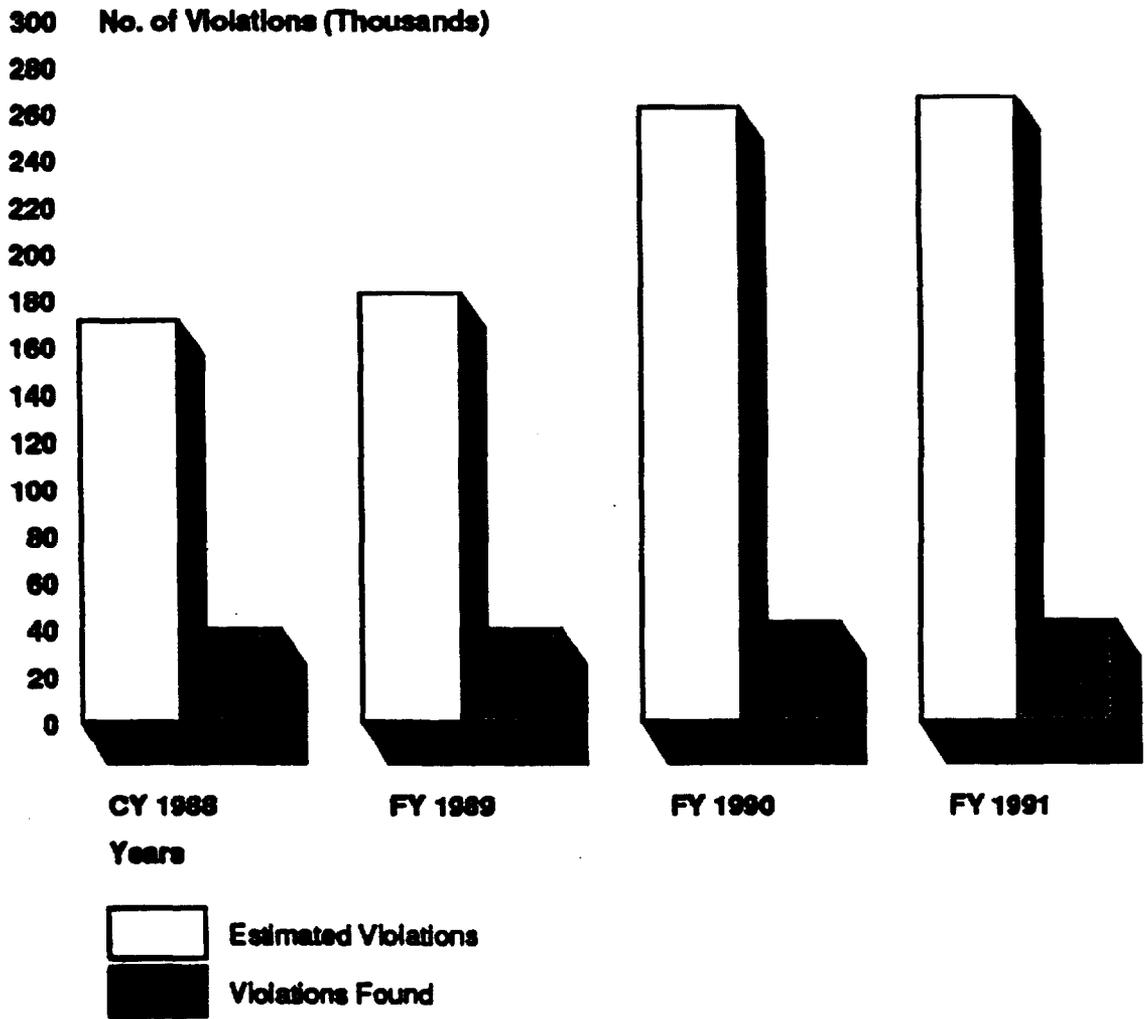
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NCAP poses significant changes in how Customs and the trade community operate. Section 201 would help ensure that Customs does the necessary planning, testing, and evaluation to accomplish NCAP goals. However, Congress' ability to assess Customs' progress toward the NCAP goals could be severely limited unless Customs develops related performance measures. Therefore, as part of its consideration of H.R. 3935, we recommend that Congress amend Section 413(a)(1) within Section 201 of Title II to require that Customs develop

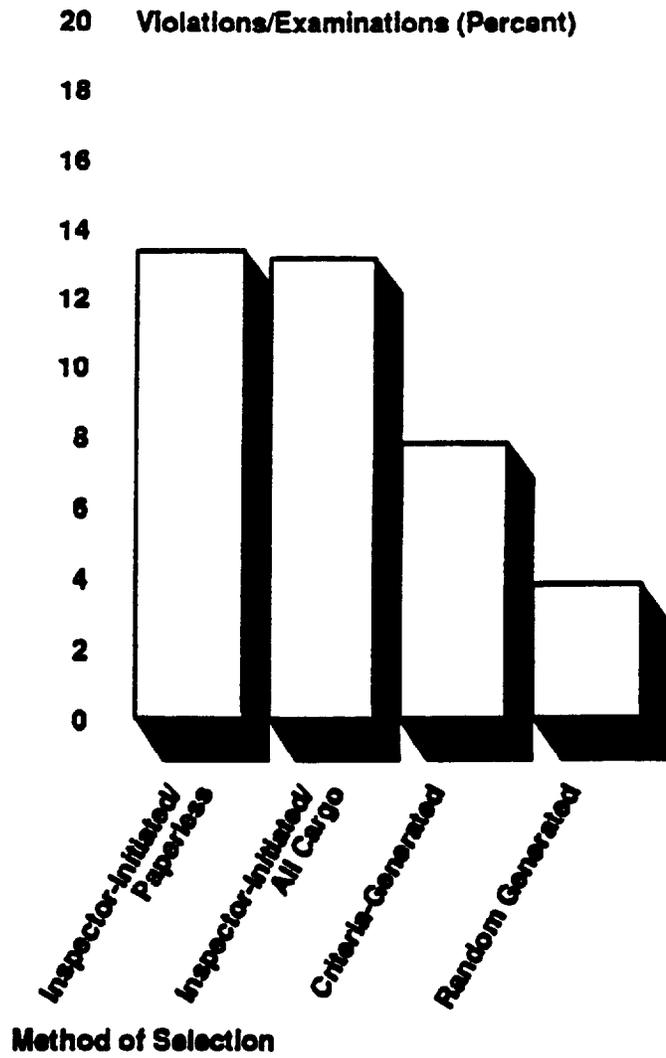
- cost estimates for bringing NCAP on line, and
- in conjunction with Congress and the trade community, measures of performance toward meeting the goals of NCAP, beginning with fiscal year 1992.

This concludes my prepared remarks. We would be pleased to answer any questions.

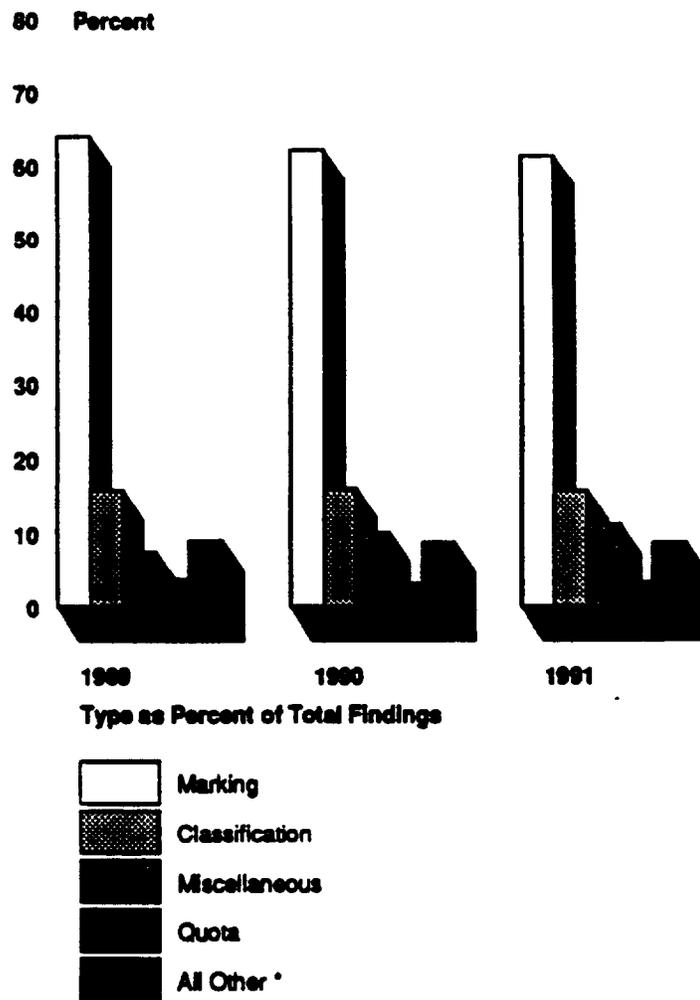
GAO Chart 1: Cargo Violations-
Found vs. Estimated



GAO **Chart 2: Cargo Violation Rates
By Method of Selection**



GAO Chart 3: Composition of Cargo Violations



* Includes prohibited/restricted, narcotics, other agency and quantity violation categories.