



UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

GENERAL GOVERNMENT
DIVISION

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FEB 14 1975

The Honorable Vernon D. Acree
Commissioner of Customs
Department of the Treasury

Dear Mr. Acree:

We have reviewed Customs' Imported Merchandise Quantity Control (IMQC) Program and the Cargo Loss Reporting System. Our review was conducted at Customs' Headquarters and in its Los Angeles, New York, and San Francisco regions. In addition, we spoke with 39 industry organizations representing cargo security firms, steamship companies or agencies, airlines, terminal operators, import associations, and port authorities.

Customs' IMQC Program has created administrative and financial problems for both Customs and the importing industry, primarily because it was combined with the Cargo Loss Reporting System. Also Customs' Cargo Loss Reporting System

- has not successfully identified the extent of international cargo theft,
- is not used for Customs' Cargo Security Program, and
- is incompatible with other Federal cargo loss reporting efforts.

BACKGROUND

In June 1970 Customs started the IMQC Program to improve the quality of incoming manifests and to insure that duties were collected on all goods entering the United States. Carriers and importers were required to report all manifest overages to Customs so that duties could be assessed on these goods. Importing carriers were permitted a specified time after the cargo arrived in the United States to notify Customs of an overage. If the overage was not reported within that time, the importing carrier had a \$500 penalty assessed against it as required by title 19 U.S.C. 1440.

For shortages, however, importers could (1) prove to Customs that the goods were never received and thereby avoid the duties, in which case Customs would then assess the importing carrier for the duties on

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the missing goods, unless the carrier could prove the goods were never imported, or (2) pay the duties and settle their claims with the importing carrier. The second alternative was intended to reduce Customs' paperwork by avoiding collecting duties from the carriers when cargo had been lost or stolen and later having to refund prepaid duties to the importers. In any event, Customs would always collect the full amount of duties on the manifested goods unless the carrier or importer could prove the goods were not imported.

As a result of hearings before the Senate Select Committee on Small Business on the effect of cargo theft on small businesses, Customs started a Cargo Loss Reporting System for imported cargo in April 1971. The system was implemented by combining it with the IMQC Program. This has caused problems for both Customs and the importing industry.

PROBLEMS IN THE IMQC PROGRAM

After the Cargo Loss Reporting System was combined with the IMQC Program, carriers and importers no longer had the option of reporting shortages as originally intended under the IMQC Program but had to report all differences between cargo manifested and cargo delivered. This change was made so that complete statistics could be collected on cargo losses. Modifying the IMQC Program in this way, however, eliminated the paperwork saving from having carriers and importers resolve shortages without Customs' involvement.

In addition, Customs began assessing duties and taxes or liquidated damages against importing carriers as required by law (19 U.S.C. 1448) for not reporting the amount and cause of shortages. Unless the importing carriers could prove the goods were never imported, duties and taxes were assessed against them for shortages of dutiable merchandise and liquidated damages were assessed for shortages of duty-free merchandise. The liquidated damages equaled the value of the shortage up to \$500.

Penalties assessed for unreported overages were often voided

In New York, Los Angeles, and San Francisco during fiscal year 1973, about 70 percent of all penalty assessments for unreported overages were eventually canceled or greatly mitigated. Only 10 percent of the \$4.9 million assessed in these cases was ever billed to the carriers.

The most frequent reason for canceling penalties was Customs' error in assessing them. The most frequent reasons for mitigating them were the carrier's clerical error in preparing the manifest, or some "extenuating" circumstance (e.g., a dock strike) prevented reporting of the discrepancy.

Customs' district personnel made the decisions to cancel or mitigate assessments and, as a result, procedures and practices varied between districts.

Several industry representatives told us that, because of the high success rate in having penalties canceled or mitigated, they petition every penalty.

Assessment of duties and
liquidated damages for shortages

Assessing duties on shortages of dutiable goods may have resulted in collecting double duties according to Customs regional officials and industry representatives.

Importers may prepay duties on their merchandise. If an importer does not receive the merchandise, the duty is refunded upon request when it is proved that the merchandise was not received. Customs then bills the importing carrier for the duties unless it can prove the goods were never imported.

In some districts, after Customs discovered a shortage, the importing carrier was billed for the duties before the importer requested a refund on the assumption that the importer would apply for a refund later. In most cases, however, importers did not apply for refunds. For example, in the San Francisco district during fiscal year 1973, Customs refunded to importers only 2 percent of the duties collected from importing carriers. This amounted to an overcollection of \$134,700.

The law does not specify whether collecting duties and taxes on shortages is intended as a penalty against the importing carrier. If it is not, but is intended only to insure the collection of all duties, then collecting from the importing carriers without making a refund to the importer is improper because it is collecting double duties. Customs' Office of Regulations and Rulings is reviewing the law's intent.

The immediate billing of importing carriers for duties and taxes also created an administrative burden for Customs because many of the duty bills issued were later canceled when the carrier furnished evidence that the importer had paid the duty. Los Angeles district officials estimated that between 40 and 60 percent of duty bills issued to importing carriers were canceled for this reason.

Assessing liquidated damages for shortages of duty-free merchandise also created administrative problems for both Customs and the industry, primarily because most of the liquidated damages were later canceled or greatly mitigated. Of the \$450,000 in liquidated damages assessed by Customs in New York, Los Angeles, and San Francisco in fiscal year 1973, only \$141,000, or about 31 percent, was billed to the carriers.

Change in procedures

In April 1974, the procedures for assessing penalties for unreported overages were changed. The change made the procedures consistent with the Customs' regulations and eased the financial and administrative burden on the industry and Customs. Before April 1974, Customs' officials believed they could insure reporting of manifest discrepancies by penalizing carriers for not reporting those noted by Customs inspectors. However, carriers complained that, in most cases, they were unaware of the discrepancy and were not deliberately violating Customs' reporting requirements. Also Customs' regulations allow carriers up to 30 days after being notified of discrepancies to account for them before they are assessed penalties.

The new procedures require Customs to inform carriers immediately of discrepancies they note and allow them up to 30 days to amend their manifests, thereby avoiding penalties. Although this change should ease the financial burden of the penalties, it will also eliminate Customs' only assurance that carriers report manifest discrepancies. Under these procedures, if Customs does not inform a carrier of an overage, the carrier need not report it because Customs does not have audit authority to determine if overages exist. Customs can only verify that shortages reported by importers and carriers were not imported and that the reason they give is the correct one.

The Customs headquarters official responsible for the IMQC Program said he plans to closely monitor the reporting of overages during the next several months to determine if carriers and importers are reporting overages without first being notified by Customs. If they are not reporting them as required by law, he plans to request a reevaluation of the Customs' regulations so Customs can assess penalties without first notifying carriers of overages.

On January 1, 1975, a revised IMQC manual became effective. The manual was revised to (1) insure that the Program is applied more consistently throughout Customs, (2) insure that the Program requirements are more consistent with the law, and (3) reflect Customs' primary concern with overages. One major change prohibits Customs' personnel from using importing carriers' records to determine if shortages exist. This should benefit both Customs and industry since Customs made many erroneous penalty assessments by using carriers' records. Customs officials pointed out that, although the law obliges carriers to report manifest shortages, Customs can no longer discover shortages independently unless the merchandise is in bond or is an informal entry.

PROBLEMS BEING EXPERIENCED IN CUSTOMS CARGO LOSS REPORTING SYSTEM

Assessing duties and taxes and liquidated damages against carriers

was ineffective in getting carriers to report shortages under the Cargo Loss Reporting System. Customs' audits of carriers' records during its cargo security pilot project in San Francisco showed that only about 15 percent of all shortages incurred by the carriers audited were reported to Customs. Customs officials attribute this failure to report to:

- Carriers' hesitancy to admit having a theft problem which could affect their business.
- Customs' practice of assessing liquidated damages against carriers after they report duty-free merchandise stolen.
- Carriers' unawareness of shortages because the goods were stolen from the dock or terminal area after they were off-loaded.

The shortages reported to Customs are summarized monthly on a computer printout entitled "Summary of Cargo Accountability." This report is intended to help Customs cargo security personnel identify ports of entry with cargo theft problems and the type of cargo being stolen. They can then determine the need for and the benefits of improving security at these ports of entry. The report could not effectively be used for these purposes, however, because its information was incomplete and unreliable. For example:

- Not all districts were transmitting comprehensive loss reports to the computer center to be included in the monthly report. Some districts were reporting all shortages while others were reporting only certain types. This situation was caused by not having a single set of guidelines for the district personnel to use in transmitting reports.
- District personnel were not matching carrier-reported shortages with those reported by Customs inspectors as required by Customs directives. As a result, some shortages were included in the monthly report both when the carrier and when Customs reported them. The data center, which prepares the report, cannot eliminate this duplication because there is no way to match reports from carriers with those from Customs after they leave the district offices.
- Losses on the "Summary of Cargo Accountability" were categorized such that some shortages were included more than once.

Customs headquarters officials responsible for the Cargo Security Program said cargo theft data is available from other Customs sources. They do not need the "Summary of Cargo Accountability," therefore, to effectively carry out their responsibilities. They noted, however, that a modified version of the "Summary of Cargo Accountability" will be needed to monitor the effectiveness of the IMQC Program.

Customs' Cargo Loss Reporting System
incompatible with other Federal
cargo loss reporting systems

Customs' Cargo Loss Reporting System is incompatible with the Freight Loss and Damage Claims reporting systems of the Interstate Commerce Commission for motor carriers and railroads and the Civil Aeronautics Board for airlines and with the Federal Maritime Commission's planned cargo loss reporting system for ocean carriers.

The inconsistencies are as follows:

- Customs' system is based on differences between cargo manifested and cargo delivered, but the other three systems are based on cargo loss claims paid by carriers.
- Customs' system covers only imported cargo by all modes of transportation, but the other systems cover all cargo movements (domestic and international) by specific modes of transportation. To a certain extent, therefore, reporting of losses is duplicated.

Although the Interagency Committee on Transportation Security was established to coordinate all Federal cargo security programs, apparently neither the Committee nor the Department of Transportation (which provides the Committee chairman) has taken any action to coordinate the various data collection efforts.

CONCLUSIONS

Customs' IMQC Program has created administrative and financial problems for both Customs and the importing industry primarily as a result of its combination with the Cargo Loss Reporting System. In addition, this system

- has not successfully identified the extent of international cargo theft,
- is not used for Customs' Cargo Security Program, and
- is incompatible with other Federal cargo loss reporting efforts.

RECOMMENDATIONS

We recommend that:

- Customs' IMQC Program concentrate on having carriers report manifest overages and that Customs be concerned with manifest shortages only if duty has not been paid or importers request duty refunds.

- Customs' Cargo Loss Reporting System be ended and the Customs' Cargo Security Program obtain information from the other Customs' sources and from the data collected by other Federal agencies.
- The "Summary of Cargo Accountability" be modified to fit the needs of the IMQC Program.

AGENCY'S ACTION

By letter dated February 12, 1975, Customs officials told us that the data printout, "Summary of Cargo Accountability" was being revised to meet the IMQC Program requirements. The revised printout will not be designed to be a loss reporting system, except for in bond merchandise or where Customs revenue is not protected.

They also told us that they believe the revised IMQC Manual will resolve most of the problem areas discussed in this report. In regard to the remaining problems, they said:

"* * *the manual does not attempt to deal with (them) either because they are requirements of statutory law or they have not been resolved in the Office of Regulations and Rulings; i.e., the collection of double duties in the cases of merchandise not available for delivery after having been unladen and the area of mitigation, which is an after-the-fact procedure provided for in 19 U.S.C. 1618."

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We appreciate your courtesy and cooperation during this review. If you or your staff have any questions or would like to discuss this report, please let us know.

A copy of this report is being sent to the Secretary of the Treasury.

Sincerely yours,

O. Gene Abston

O. Gene Abston
Assistant Director