

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>) or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-OCC-2004-11 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-OCC-2004-09. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at <http://www.optionsclearing.com>. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-OCC-2004-09 and should be submitted on or before October 29, 2004.

**V. Conclusion**

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR-OCC-2003-09) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E4-2534 Filed 10-7-04; 8:45 am]

**BILLING CODE 8010-01-P**

**DEPARTMENT OF STATE**

**[Public Notice 4856]**

**Bureau of Nonproliferation;  
Determination on Export-Import Bank  
Support for U.S. Exports to Libya**

**AGENCY:** Bureau of Nonproliferation, Department of State.

**ACTION:** Notice.

**SUMMARY:** Pursuant to section 2(b)(4) of the Export-Import Bank Act of 1945, as amended, the President has determined and certified to Congress that it is in the national interest for the Export-Import Bank to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to Libya.

**EFFECTIVE DATE:** November 13, 2004.

**FOR FURTHER INFORMATION CONTACT:**

Caroline R. Russell, Office of Regional Affairs, Bureau of Nonproliferation, Department of State ((202) 647-9786).

**SUPPLEMENTARY INFORMATION:** In accordance with section 2(b)(4) of the Export-Import Bank Act of 1945, as amended, the Department of State determined that Libya has materially violated a safeguards agreement with the International Atomic Energy Agency (IAEA). This determination is based on the extensive Libyan nuclear activities conducted outside safeguards detailed in the IAEA Director General's February 20, 2004 report to the IAEA Board of Governors. It is also supported by the decision of the IAEA Board that Libya's failure to meet the requirements of its safeguards agreement "constituted noncompliance" pursuant to Article XII.C. of the IAEA statute. As a result of this determination, under section 2(b)(4) of the Export Import Bank Act of 1945, the Board of Directors of the Export Import Bank is prohibited from giving "approval to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports" to Libya.

The President has determined and certified to Congress pursuant to section 2(b)(4) that "it is in the national interest" to waive the restrictions in the law and allow the Export-Import Bank to support United States exports to

Libya. This Presidential determination removes this impediment to Export-Import Bank support for United States exports to Libya beginning November 13, 2004 (45 days after the date the President's determination and certification was submitted to Congress). The Export-Import Bank should be consulted about other legal provisions that may continue to restrict Export-Import Bank support for United States exports to Libya.

Dated: September 29, 2004.

**Susan F. Burk,**

*Acting Assistant Secretary of State for Nonproliferation, Department of State.*

[FR Doc. 04-22736 Filed 10-7-04; 8:45 am]

**BILLING CODE 4710-27-P**

**OFFICE OF THE UNITED STATES  
TRADE REPRESENTATIVE**

**[Docket No. WTO/DS315]**

**WTO Dispute Settlement Proceeding  
Regarding European Communities—  
Selected Customs Matters**

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Office of the United States Trade Representative ("USTR") is providing notice that on September 21, 2004, in accordance with the Marrakesh Agreement Establishing the World Trade Organization ("WTO Agreement"), the United States requested consultations with the European Communities regarding (a) the non-uniform administration by the European Communities of laws, regulations, judicial decisions, and administrative rulings pertaining to the classification and valuation of products for customs purposes, and to requirements, restrictions or prohibitions on imports, and (b) the failure of the European Communities to institute judicial, arbitral or administrative tribunals or procedures for the purpose, *inter alia*, of the prompt review and correction of administrative action relating to customs matters. USTR invites written comments from the public concerning the issues raised in this dispute.

**DATES:** Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before November 8, 2004, to be assured of timely consideration by USTR.

**ADDRESSES:** Comments should be submitted (i) electronically, to [FR0448@ustr.gov](mailto:FR0448@ustr.gov), Attn: "European Communities—Selected Customs

<sup>6</sup> 17 CFR 200.30-3(a)(12).

Matters (DS315)" in the subject line, or (ii) by fax to Sandy McKinzy, at (202) 395-3640, with a confirmation copy sent electronically to the e-mail address above.

**FOR FURTHER INFORMATION CONTACT:**

Theodore R. Posner, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, (202) 395-3582.

**SUPPLEMENTARY INFORMATION:** Section 127(b) of the Uruguay Round Agreements Act ("URAA") (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, but in an effort to provide additional opportunity for comment, USTR is providing notice that consultations have been requested pursuant to the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"). That request may found at <http://www.wto.org> contained in a document designated as WT/DS315/1. If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within six to nine months after it is established.

**Major Issues Raised by the United States**

On September 21, 2004, the United States requested consultations with the European Communities pursuant to Articles 1 and 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"), and Article XXII:1 of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994") regarding:

(a) The non-uniform administration by the European Communities of laws, regulations, judicial decisions and administrative rulings pertaining to the classification and valuation of products for customs purposes, and to requirements, restrictions or prohibitions on imports, and

(b) The failure of the European Communities to institute judicial, arbitral or administrative tribunals or procedures for the purpose, *inter alia*, of the prompt review and correction of administrative action relating to customs matters.

The principal law-making organs of the European Communities, the Council and the Commission, over time have adopted certain measures pertaining to the classification and valuation of imported goods for customs purposes, as well as procedures for the entry and

release of goods into the European Communities. These measures include:

- Council Regulation (EEC) No. 2913/92 of 12 October 1992 establishing the Community Customs Code, including all annexes thereto, as amended;
- Commission Regulation (EEC) No. 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No. 2913/92 of 12 October 1992 establishing the Community Customs Code, including all annexes thereto, as amended;
- Council Regulation (EEC) No. 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, including all annexes thereto, as amended;
- The Integrated Tariff of the European Communities established by virtue of Article 2 of Council Regulation (EEC) No. 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, including all annexes thereto, as amended; and
- For each of the above laws and regulations, all amendments, implementing measures and other related measures.

Administration of the foregoing measures generally is a matter for the national customs authorities in each EC member State. This has led to disparate administration in a number of important areas, including but not limited to:

- Differences in the classification and valuation of goods;
- Differences in procedures for the classification and valuation of goods, including the provision of binding classification and valuation information to importers;
- Differences in procedures for the entry and release of goods, including use of automation in some member States but not others, different certificate of origin requirements, different criteria among member States for the physical inspection of goods, different licensing requirements for importation of food products, and different procedures for processing express delivery shipments;
- Differences in procedures for auditing entry statements after goods are released into the stream of commerce in the European Communities;
- Differences in penalties and differences in procedures regarding the imposition of penalties for violation of customs rules; and
- Differences in record-keeping requirements.

USTR believes the lack of uniformity in administration of EC customs measures to be inconsistent with the obligations of the European Communities, as a member of the World

Trade Organization, under Article X:3(a) of the GATT 1994. Article X:3(a) requires a WTO Member to "administer in a uniform, impartial and reasonable manner all its laws, regulations, decisions and rulings of the kind described in [Article X:1]." Disparate administration from member State to member State appears to be inconsistent with the requirement of uniformity.

Furthermore, the Community Customs Code expressly provides that EC member States are responsible for appeals from administrative decisions on customs matters. Thus, an importer or other interested party seeking to challenge a decision by national customs authorities must bring its appeal to a national administrative tribunal or court. USTR understands that only after proceeding through administrative and/or judicial review is the interested party able to have the matter considered by the European Court of Justice.

The lack of procedures for prompt review by a tribunal with EC-wide jurisdiction appears to be inconsistent with the European Communities' obligation under Article X:3(b) of the GATT 1994, which provides, in relevant part, "Each contracting party shall maintain, or institute as soon as practicable, judicial, arbitral or administrative tribunals or procedures for the purpose, *inter alia*, of the prompt review and correction of administrative action relating to customs matters."

**Public Comment: Requirements for Submissions**

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Persons may submit their comments either (i) electronically, to [FR0448@ustr.gov](mailto:FR0448@ustr.gov), Attn: "European Communities—Selected Customs Matters (DS315)" in the subject line, or (ii) by fax to Sandy McKinzy, at (202) 395-3640. For documents sent by fax, USTR requests that the submitter provide a confirmation copy to the electronic mail address listed above.

USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Comments must be in English. A person requesting that information

contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly designated as such and "BUSINESS CONFIDENTIAL" must be marked at the top and bottom of the cover page and each succeeding page.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as "SUBMITTED IN CONFIDENCE" at the top and bottom of the cover page and each succeeding page; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened, the U.S. submissions to that panel, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket WTO/DS315, European Communities—Selected Customs Matters Dispute) may be made by calling the USTR Reading Room at (202) 395-6186. The USTR Reading Room is open to the public from 9:30 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday.

**Daniel E. Brinza,**

*Assistant United States Trade Representative for Monitoring and Enforcement.*

[FR Doc. 04-22739 Filed 10-7-04; 8:45 am]

**BILLING CODE 3190-W4-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### **Proposed Advisory Circular 23-xx-22, Guidance for Approved Model List (AML) Supplemental Type Certificate (STC) Approval of Part 23 Airplane Avionics Installations**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of availability of proposed advisory circular (AC) and request for comments.

**SUMMARY:** This notice announces the availability of and requests comments on a proposed advisory circular (AC) that sets forth acceptable methods of compliance with 14 CFR, part 23 concerning Approved Model List STC approval. This notice is necessary to give all interested persons an opportunity to present their views on the proposed AC.

**DATES:** Comments must be received on or before November 8, 2004.

**ADDRESSES:** Send all comments on the proposed AC to: Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, Programs and Procedures (ACE-114), 901 Locust Street, Kansas City, Missouri 64106. Electronic comments may be sent to the individual named under **FOR FURTHER INFORMATION CONTACT**.

**FOR FURTHER INFORMATION CONTACT:** Mr. Wes Ryan (*wes.ryan@faa.gov*), Standards Office, Small Airplane Directorate, Aircraft Certification Service, Kansas City, Missouri 64106, telephone (816) 329-4125, fax (816) 329-4090.

**SUPPLEMENTARY INFORMATION:** Any person may obtain a copy of this proposed AC by contacting the person named above under **FOR FURTHER INFORMATION CONTACT**. A copy of the AC will also be available on the internet at <http://www.airweb.faa.gov/AC> within a few days.

*Comments Invited:* We invite interested parties to submit comments on the proposed AC. Commenters must identify AC 23-xx-22 and submit comments to the address specified above. The FAA will consider all communications received on or before the closing date for comments before issuing the final AC. The proposed AC and comments received may be inspected at the Standards Office (ACE-110), 901 Locust, Room 301, Kansas City, Missouri, between the hours of 8:30 a.m. and 4 p.m. weekdays, except Federal holidays, by making an appointment in advance with the person

listed under **FOR FURTHER INFORMATION CONTACT**.

*Background:* The advisory circular sets forth guidelines for using the Approved Model List (AML) Supplemental Type Certificate (STC) process for the installation approval of avionics for 14 CFR, part 23 airplanes, including airplanes certified under prior certification bases, such as CAR 3 or bulletin 7-A. This AC provides guidance to FAA personnel, equipment manufacturers, and avionics equipment installers.

Issued in Kansas City, Missouri, on September 28, 2004.

**Dorenda D. Baker,**

*Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 04-22608 Filed 10-7-04; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### **Notice of Opportunity for Public Comment on Surplus Property Release at Memphis International Airport, Memphis, Tennessee**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice.

**SUMMARY:** Under the provisions of Title 49, U.S.C. Section 47153(c), notice is being given that the FAA is considering a request from the Memphis-Shelby County Airport Authority to waive the requirement that a 2.72-acre parcel of surplus property, located at the Memphis International Airport, be used for aeronautical purposes.

**DATES:** Comments must be received on or before November 8, 2004.

**ADDRESSES:** Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address: Memphis Airports District Office, 2862 Business Park Drive, Building G, Memphis, TN 38118-1555.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Richard V. White, A.A.E., Director of Properties, Memphis-Shelby County Airport Authority at the following address: 2491 Winchester Rd.; Suite 113, Memphis, TN 38116-3856.

**FOR FURTHER INFORMATION CONTACT:** Tommy L. Dupree, Program Manager, Memphis Airports District Office, 2862 Business Park Drive, Building G, Memphis, TN 38118-1555, (901) 322-8185. The application may be reviewed in person at this same location.