

**DEPARTMENT OF THE TREASURY  
Customs Service**

**Revised National Customs Automation Program Test Regarding Reconciliation**

**AGENCY:** Customs Service, Treasury.

**ACTION:** General notice.

**SUMMARY:** On February 6, 1997, a notice was published in the **Federal Register** announcing a Customs prototype test of reconciliation. A subsequent notice, published in the **Federal Register** on September 30, 1997, announced modifications to the originally planned test. In response to comments received pursuant to that notice and discussions with the trade community, Customs has made further enhancements to the reconciliation prototype. These enhancements include a blanket application option to entry- by-entry flagging and, for Reconciliations involving duties, taxes, or fees due, the option of filing aggregate data for the Reconciliation in lieu of entry-by-entry data. This document serves as a replacement for all previous notices for this prototype, which is known as the ACS Reconciliation Prototype. The changes to the prototype detailed herein do not affect the previously announced start date of October 1, 1998, nor do they affect the policy which makes this prototype the exclusive means to reconcile entries, pursuant to 19 U.S.C. 1484(b).

This document invites public comments concerning any aspect of the planned test, informs interested members of the public of the requirements for voluntary participation, and establishes the process for developing evaluation criteria. This document also serves to open the application period. Certain information, as outlined in this notice, must be filed in an application with Customs prior to an applicant being approved for participation. It is important to note that certain aspects of this prototype may be modified prior to implementation of the final reconciliation program.

**EFFECTIVE DATES:** The testing period of this prototype will commence no earlier than October 1, 1998, will run for approximately two years, and may be extended. The prototype will be limited to consumption entries filed on or after October 1, 1998, through September 30, 2000. Comments concerning this notice and applications to participate in the prototype are requested by March 31, 1998.

**ADDRESSES:** Written comments regarding this notice and/or applications to participate in this prototype should be addressed to Ms. Shari McCann, Reconciliation Team, U.S. Customs Service, 1300 Pennsylvania Ave, NW, Room 5.2A, Washington, DC, 20229-0001.

**FOR FURTHER INFORMATION CONTACT:** Ms. Shari McCann, at (202) 927-1106, or Mr. Don Luther at (202) 927-0915.

**SUPPLEMENTARY INFORMATION:**

**BACKGROUND**

Title VI of the North American Free Trade Agreement Implementation Act (the Act), Pub.L. 103-182, 107 Stat. 2057 (December 8, 1993), contains provisions pertaining to Customs Modernization (107 Stat. 2170). Subtitle B of Title VI establishes the National Customs Automation Program (NCAP)--an automated and electronic system for the processing of commercial importations. Section 637 of the Act amended Section 484 of the Tariff Act of 1930 to establish a new subsection (b), entitled "Reconciliation", a planned component of the NCAP. Section 101.9(b) of the Customs Regulations (19 CFR 101.9(b)) provides for the testing of NCAP components. See, TD 95-21. This test is established pursuant to those regulations. This document replaces earlier notices concerning the reconciliation prototype test, published in the **Federal Register** on February 6, 1997 (62 FR 5673), announcing the initial Customs prototype test of reconciliation, and on September 30, 1997 (62 FR 51181), modifying the initial prototype).

**THE CONCEPT OF RECONCILIATION**

When certain information (other than that related to the admissibility of merchandise) is not determinable at the time of entry summary, an importer may later provide Customs with that information on a Reconciliation. A Reconciliation is treated as an entry for purposes of liquidation, reliquidation, and protest. Upon liquidation of any underlying entry summary, any decision by Customs entering into that liquidation, e.g., classification, may be protested pursuant to 19 U.S.C. 1514. When the outstanding issue, e.g., value as determined by the actual costs, is later furnished in the Reconciliation, the Reconciliation will be liquidated. The liquidation of the Reconciliation will be posted to the Bulletin Notice of Liquidation, and may be protested pursuant to 19 U.S.C. 1514, but the protest may only pertain to the issue(s) flagged for reconciliation (i.e., the protest may not re-visit issues previously liquidated on the underlying entry summary).

Importers must be aware of the distinction between prior disclosure and reconciliation. A prior disclosure exists when a person concerned discloses the circumstances of a violation pursuant to the Customs Regulations. The person disclosing this information must do so before, or without knowledge of, the commencement of a formal investigation of that violation. Reconciliation is the process by which an importer notifies Customs of undeterminable information, and by which the outstanding information is provided to Customs at a later date. Under reconciliation, the importer is not disclosing a violation, but rather identifying information which is undeterminable and will be provided at a later time.

### DEFINITIONS

1. *Reconciliation*: The process which allows an importer to identify undeterminable information (other than that affecting admissibility) to Customs, and provide the outstanding information at a later date. Reconciliation also refers to the entry on which the outstanding information is provided.

2. *Underlying entry summary*: A consumption entry summary flagged for reconciliation.

3. *Flagging an entry for reconciliation*: Identifying to Customs that an entry summary is subject to reconciliation for a defined issue(s). There are two ways an importer can flag an entry summary for reconciliation:

- a. *Entry-by-entry flagging*: The importer electronically via ABI inputs an indicator on all entries which are subject to reconciliation. This indicator identifies the issue(s) subject to reconciliation.
- b. *Blanket application*: Prior to filing entries subject to reconciliation, the importer provides Customs a letter which contains the importer of record number, the time period in which entries are subject to reconciliation, and the issue(s) subject to reconciliation. Customs will input an electronic indicator on ALL entries for that importer for that time period, which will identify them as being subject to reconciliation for the issue(s) indicated.

4. *Entry-By-Entry Reconciliation*: A Reconciliation in which the revenue adjustment is specifically provided for each affected entry summary.

5. *Aggregate Reconciliation*: A Reconciliation filed with summarized data showing reconciled adjustments at an aggregate level. A list of the affected entries is required, but the revenue change need not be broken out according to individual underlying entries. Aggregate Reconciliations may be used only where all adjustments covered by the Reconciliation result in *absolute increases* in duties, taxes, and fees. Drawback is not available on the increased/reconciled adjustment.

6. *Absolute increase*: Each and every underlying entry summary covered by the Reconciliation results in an increase or no change in duties, taxes, and fees. Only absolute increases are eligible for Aggregate Reconciliations.

Examples: Where entries A and B are both covered by a Reconciliation, the Reconciliation would have an Absolute Increase if the changes to both entries would be increases or no changes. If A increased and B decreased, even if A's increase is greater than B's decrease, this is NOT an Absolute Increase. See *Netting*, below.

Note: This principle applies at the entry level rather than at the line level. That is, regardless of decreases on individual lines on entry A, as long as the total change for entry A resulted in an increase in duties, taxes, and fees, it could be considered part of an Absolute Increase.

7. *Netting*: Situations in which increases AND decreases resulted at the end of the reconciliation period. In any netting situation, the importer has the following options:
- a. File an Entry-By-Entry Reconciliation to account for both the increases and decreases, or
  - b. Divide the Reconciliation into two pieces: An Aggregate Reconciliation for the increase and an Entry-By-Entry Reconciliation for the decrease.

### DESCRIPTION OF THE ACS RECONCILIATION PROTOTYPE

Customs goals in the design of this prototype are to (1) make progress under this key component of the Mod Act, (2) establish uniformity in an area which has traditionally operated under a variety of procedures, (3) provide financial safeguards, and (4) institute a legal mechanism for reconciling entries.

#### A. EXCLUSIVE MEANS

Concurrent with this Automated Commercial System (ACS) Reconciliation Prototype, Customs is designing a reconciliation component under the National Customs Automation Program Prototype (NCAP/P) in the Automated Commercial Environment (see, 62 FR 14731, dated March 27, 1997). Thus, except for participation in the NCAP/P and upon implementation of this prototype, any party who elects to reconcile entries pursuant to 19 U.S.C. 1484(b) may **only** do so through this prototype. This prototype will serve as the **exclusive means** to reconcile entries for (1) value,

(2) classification on a limited basis, (3) merchandise entered under Harmonized Tariff Schedule of the United States (HTSUS) heading 9802, and/or (4) merchandise entered under the (NAFTA). **All practices with respect to block liquidation/block appraisalment** (liquidating one entry summary or some entry summaries with a periodic adjustment affecting many entry summaries) **will cease and such post-entry adjustments will only take place via the ACS Reconciliation Prototype**. All importers may apply for this prototype. Details on the application process are explained below. Outside of reconciliation, the only alternative post-entry adjustment will be to file a Supplemental Information Letter for each affected entry summary, with appropriate corrective data and duty tenders. (For information on the Supplemental Information Letter, see Automated Broker Interface (ABI) administrative message #97-0727, posted on 8/4/97, entitled "314 Day Liq Cycle - Trade Notice".) As always, importers retain the right to request extension of liquidation of entry summaries, as described in 19 CFR 159.12(a)(ii).

#### B. NOTICE OF INTENT

A notice of intention to file a Reconciliation ("Notice of Intent") identifies an undeterminable issue, transfers liability for that issue to a Reconciliation and permits the liquidation of the underlying entry summary as to all issues other than those which are transferred to the Reconciliation. By providing a Notice of Intent, an importer is requesting that a certain issue or group of issues be separated from the entry summary. The importer voluntarily requests and accepts that the issue(s) identified in the Notice of Intent remain open and outstanding. The importer remains responsible for filing a Reconciliation, and liable for any duties, taxes, and fees resulting from the filing and/or liquidation of the Reconciliation. The Notice of Intent creates an obligation on the importer to file the Reconciliation. Importers participating in this prototype will recognize that the liquidation of the underlying entries pertains only to those issues not identified by the importer on the Notice of Intent.

The underlying entries flagged for a Reconciliation may be filed at any port, including any combination of ports. The following entries types are eligible for reconciliation under this prototype:

1. Entry type 01: Free and dutiable formal consumption entries;
2. Entry type 02\*: Quota/visa consumption entries;
3. Entry type 03\*: Antidumping/Countervailing duty (AD/CVD) consumption entries;
4. Entry type 06: Foreign Trade Zone consumption entries; and
5. Entry type 07\*: Quota/visa and AD/CVD combination consumption entries.

\*Quota and AD/CVD entries may not be reconciled for classification; they may only be reconciled for HTSUS heading 9802, value and/or NAFTA. The issues of AD/CVD final rate and scope determination, quota category or any admissibility issue are likewise **not** eligible reconciliation issues under this prototype.

#### (1) Option: Entry-by-entry Flag

During this prototype, the importer may "flag" the underlying entries at time of filing via an ABI indicator, which will serve as the Notice of Intent.

### **(2) Option: Blanket Application Flag**

Those importers who find that a large majority of their entry summaries require flagging may provide their Notice of Intent by filing a "blanket application" in lieu of entry- by-entry flags. The blanket application will consist of written notice by the importer showing the Importer of Record number, range of dates in which the underlying entry summaries will be subject to reconciliation, and a list of the issues subject to reconciliation. This application must be received by Customs no later than seven working days prior to transmission of the first entry subject to the Reconciliation. Upon receipt of the blanket application, Customs will automatically apply the above-mentioned electronic flag to **all** entry summaries filed by the importer during the specified time period.

### **C. ISSUES TO BE RECONCILED**

The ACS Reconciliation Prototype will allow the following issues to be flagged for reconciliation: value, HTSUS heading 9802, NAFTA, and classification on a limited basis.

1. Value - The ACS Reconciliation Prototype is open to reconciliation of all value issues.
2. HTSUS heading 9802 - The issue of 9802 includes only the value aspect involved with this HTSUS provision, e.g., reconciling the estimated to actual costs.
3. NAFTA - Reconciliation may be used as a vehicle to file post-importation refund claims under 19 U.S.C. 1520(d). NAFTA Reconciliations are subject to the obligations of 19 CFR part 181, subpart D. The importer must possess a valid Certificate of Origin at the time of making a NAFTA claim. Presentation of the NAFTA Certificate of Origin to Customs is waived for the purposes of this prototype, but the filer must retain this document, which shall be provided to Customs upon request. The Certificate of Origin is part of the (19 U.S.C. 1508(a)(1)(A)), and covered by the recordkeeping provisions of the Customs laws. Filers are reminded that interest shall accrue from the date on which the claim for NAFTA eligibility is made (the date of the NAFTA Reconciliation) to the date of liquidation or reliquidation of the Reconciliation. The obligation to file a Reconciliation opened by the Notice of Intent applies to all Reconciliations, including NAFTA, even if the participant finally concludes it cannot file a valid 520(d) claim, in which instance the NAFTA Reconciliation would be filed with no change.
4. Classification - Classification issues will be eligible for reconciliation only when such issues have been formally established as the subject of a pending administrative ruling (including preclassification rulings), protest, or court action.

Reconciliation for classification issues other than those listed above is not permitted. Reconciliation for quantity is also not permitted. These issues are very closely linked to admissibility, and therefore are not eligible for reconciliation. Post-entry adjustments for these issues may still be made however, using the Supplemental Information Letter process. (For information on this process, see ABI administrative message #97-0727, 8/4/97.)

### **D. RECONCILIATION - MENU APPROACH**

By this notice, Customs is offering a variety of choices in reconciliation to meet a variety of business needs. Importers may find it helpful to view these alternatives as a "menu" approach. It should be noted that the following menu choices are for the type of Reconciliation filed. They are not conditioned on the method of flagging used. In other words, an importer can flag entries either individually or via a blanket application, and reconcile those entries via an Aggregate or Entry-By-Entry Reconciliation.

1. Entry-by-Entry Reconciliation.
  - a. This option can be used for all reconciliation adjustments, including refunds of duties, taxes, and fees.

- b. The continuous bond on the underlying entries will be used to cover the Reconciliation.
- c. Customs will accept no drawback claims on the underlying entries until the Reconciliation is filed with duties, taxes, and fees deposited.
- d. The revenue adjustment will be broken down to entry-by-entry detail for all underlying entry summaries.
- e. After the Reconciliation has been filed, drawback may be claimed against the underlying entries and, if appropriate, the reconciled increase.
- f. Reconciliation of any issue which covers Antidumping and/or Countervailing duty entries must be submitted as an Entry-By-Entry Reconciliation.

## 2. Aggregate Reconciliation.

- a. This option applies only to those situations which involve an absolute increase, *i.e.*, each and every entry covered by the Reconciliation results in an increase or no change in duties, taxes, and fees. If netting is involved to reach a net increase, this option does not apply. (See Definitions section of this notice for more details.)

For example, entry 123 covers product A. Entry 234 covers product B. An assist was provided for product A, which resulted in an increase in duty. The value of product B was affected by currency fluctuations, which resulted in a decrease in duty. An Aggregate Reconciliation cannot be filed to cover both entry 123 and entry 234. Remember, this restriction against netting applies only to netting between different entries. If entry 456 covers both products A and B, as long as entry 456 as a whole had an increase in duties, taxes and fees, it may be included in an Aggregate Reconciliation.

- b. The continuous bond on the underlying entries will be used to cover the Reconciliation.
- c. Customs will accept no drawback claims on the underlying entries until the Reconciliation is filed with duties, taxes, and fees deposited.
- d. The Reconciliation will include a list of all underlying entries, but will not require the revenue adjustment to be broken down by entry.
- e. After the Reconciliation has been filed, drawback may be claimed against the underlying entries, but may NOT be claimed against the reconciled increase. All parties are hereby notified that no drawback refunds will be issued on the reconciled adjustment, *e.g.*, if the duty paid on the underlying entry summary is \$10,000, and the overall reconciliation increase adjustment is \$1,000, the \$10,000 is eligible for a drawback refund. The \$1,000 is not eligible for a drawback refund. By opting to file an Aggregate Reconciliation, all participants understand that they waive their ability to claim drawback or transfer drawback rights for the amount of the reconciled increase.

### **E. FILING OF RECONCILIATION - GROUPING, TIMELINESS AND LOCATION**

Reconciliation is to be used to group entries together for a common, outstanding issue. Entries flagged for reconciliation which have the same outstanding information should all be grouped on one Reconciliation, *e.g.*, entries flagged for reconciliation awaiting finalization of assist information should be grouped on one Reconciliation where the assist information is provided.

A Reconciliation of value, HTSUS heading 9802 and/or classification shall be filed within 15 months of the date of the oldest entry summary flagged for and grouped on that Reconciliation. A Reconciliation may cover any combination of value, HTSUS heading 9802 and classification issues. Should the issues of value, HTSUS heading 9802 and/or classification on one entry summary be flagged for reconciliation, the participant shall address all those issues on the same Reconciliation.

A NAFTA Reconciliation must be filed within 12 months of the date of importation of the oldest entry summary flagged for and grouped on that Reconciliation. NAFTA Reconciliations may not be combined with other issues, because of NAFTA's unique nature and different due dates, and so that Customs may expedite the processing of such refunds.

One underlying entry summary may have up to two Reconciliations, one for any combination of classification, HTSUS heading 9802 and/or value, and one for NAFTA.

A Reconciliation which is not filed by the appropriate deadline will be handled as a liquidated damages claim for failure to file.

The Reconciliation and supporting documentation may be filed at any port location. Certain ports will be established as reconciliation processing ports. The ABI transmission of the Reconciliation must reflect the appropriate Customs-identified processing port, and respective commodity team, on the header record. Customs will notify participants of the appropriate processing ports and commodity teams. Please note that entries filed in Puerto Rico or the Virgin Islands must be reconciled on separate Reconciliations. Reconciliations cannot combine underlying entries filed in Puerto Rico with underlying entries filed at any other port, or entries filed in the Virgin Islands with entries filed at any other port. This limitation is due to the fact that revenue deposited on or refunded from entries filed in the Virgin Islands and Puerto Rico are attributed to separate accounts for those territories than entries filed at other ports.

#### **F. EFFECT OF RECONCILIATION ON DRAWBACK**

Inherent in the concept of reconciliation is the fact that, because certain issues are kept open pending filing of the Reconciliation, the information regarding these issues and the resulting liability for the duties, taxes, and fees previously asserted by the importer may change when the Reconciliation is filed. Customs will therefore not accept drawback claims or certificates on underlying entries flagged for reconciliation until the Reconciliation is filed with all duties, taxes, and fees deposited. In the case of a drawback claim and a reconciliation refund against the same underlying entries, the importer is responsible for ensuring that a claim for a refund in excess of the duties paid is not filed with Customs and for substantiating how the drawback and reconciliation refund requests apply to different merchandise.

Since drawback is paid on a per-entry basis, reconciled adjustments filed with aggregate data are not eligible for drawback. As the adjustment made pursuant to an Aggregate Reconciliation is not connected to specific entry summaries, it would be impossible for Customs to ensure that those duties were indeed entitled to drawback, and/or that the duty for which the drawback was claimed had not been previously refunded on the underlying entry summary(ies).

#### **G. FILING OF RECONCILIATION - BOND ISSUES**

Entry summaries flagged for reconciliation will require a continuous bond, which must be accompanied by a rider. The rider shall read as follows:

*By this rider to the Customs Form 301, No. -----, executed on -----, by -----, as principal, importer No. -----, and -----, as surety, code No. -----, which is effective on-----, the principal and surety agree that this bond covers all Reconciliations pursuant to 19 U.S.C. 1484(b) that are elected on any entries secured by this bond, and that all conditions set out in Section 113.62, Customs Regulations, are applicable thereto.*

The continuous bond obligated on the underlying entries, along with the rider, will be used to cover the Reconciliation. Adequate bond coverage must exist for the Reconciliation.

All underlying entries subject to one Reconciliation must be covered by one surety and one continuous bond. Each Reconciliation must be covered by one surety, *i.e.*, two sureties cannot cover the same Reconciliation. Termination of the continuous bond, either by Customs, the bond principal or surety will result in the closing of the Reconciliation to the addition of further underlying entries.

## H. ACS RECONCILIATION PROTOTYPE - CHAIN OF EVENTS

1. Initial application - As part of an importer's application to participate in the ACS Reconciliation Prototype, the importer will provide information including descriptions of the specific issues to be reconciled, the merchandise and corresponding Harmonized Tariff Schedule (HTS) classification, and which ports the importer uses or intends to use. Customs will notify the applicant in writing of their acceptance or denial into the prototype. (See "Application to Participate in ACS Reconciliation Prototype" below.)

2. Entries flagged for reconciliation -

a. Any entry summary that is flagged for reconciliation must be filed via ABI. An electronic indicator, or "flag", signifying that these entries are to be reconciled, will be applied at the header level. The flag designates that the indicated issue(s) for the entire entry summary (not just a specific line) is subject to reconciliation.

b. As mentioned above, there is also a "blanket application" option, in which ACS will automatically set the flag for all of an importer's entries for a given period for a given issue(s). The same responsibilities and liabilities apply to these entries as those flagged individually.

c. For purposes of this prototype, the "flag" (set either by the filer or by Customs in accordance with a blanket application) serves as the importer's Notice of Intent to file a Reconciliation.

d. The importer must use reasonable care in filing the entry summary, including but not limited to declaring the proper value, classification, and rate of duty on the underlying entry summary, regardless of whether a particular issue has been flagged for reconciliation. For example, if the entry is subject to value reconciliation, the importer must still use reasonable care in providing a good faith value estimate, and deposit the appropriate duties, taxes, and fees at time of entry summary.

e. Entry summaries may be flagged for reconciliation until the close of the test period.

3. Liquidation of underlying entry summaries - Liquidation of the underlying entry summary will occur as with any entry summary and will be posted to the Bulletin Notice of Liquidation. Importers who participate in this prototype will recognize that the liquidation of the underlying entry summary pertains only to those issues not identified by the importer as subject to reconciliation. Upon liquidation of the underlying entries, any decisions of the Customs Service entering into that liquidation can be protested pursuant to 19 U.S.C. 1514. It should be noted that liquidation of the underlying entry summaries can, but does not necessarily, precede the filing of the Reconciliation.

4. Importer Electronically Transmits the Reconciliation via ABI -

a. When the importer has finalized the outstanding information, and has the answer to the issue in question, the filer, using reasonable care, will electronically (via ABI) transmit the Reconciliation to Customs. The Reconciliation will be a new entry type 09.

b. Transmission of a Reconciliation for value, HTSUS heading 9802, and/or classification must occur within 15 months of the date of the oldest entry summary flagged for and grouped on that Reconciliation. Transmission of a NAFTA Reconciliation must occur within 12 months of the date of importation of the oldest entry summary flagged for and grouped on that Reconciliation.

c. Each Reconciliation will be limited to one importer of record, i.e., the underlying entries and the Reconciliation must have the same importer of record.

d. This prototype will allow up to 9,999 underlying entries per Reconciliation.

e. The importer must clearly document how the information in the Reconciliation was derived. The importer must maintain all supporting documentation required to substantiate the declaration made via the Reconciliation, and provide this information to Customs or Census upon request. Supporting documents may include, but are not limited to:

- i. CF 247 - Cost Submission;
- ii. Detailed line-level spreadsheets;
- iii. Landed cost analysis sheets;
- iv. Invoices, purchase orders, and contracts; and
- v. Documents supporting apportionment of assists in accordance with 19 CFR 152.103(e).  
The recordkeeping provisions of the Customs laws apply to the Reconciliation and all supporting documentation as described above.

f. While entry summaries may be flagged until the close of the test period, Reconciliations may be filed and liquidated after the closing date of the test.

g. For both the entry-by-entry and aggregate methods of reconciliation, the structure of the Reconciliation will include a header, association file, and line item data. Where there are differences in the type of Reconciliation, they are noted below. Upon request, Customs will provide applicants and other interested parties with sample Reconciliations of each type. Customs will provide participants with instructions for reconciliation programming. Importers are encouraged not to begin programming until that time.

- i. Header - The Reconciliation header will include the following data elements:
  - (a) Reconciliation entry number;
  - (b) Port of entry code (= processing port);
  - (c) Responsible commodity team;
  - (d) Reconciliation type (Entry-By-Entry or Aggregate);
  - (e) Reconciliation date (date of filing);
  - (f) Issue(s) being reconciled;
  - (g) IRS number;
  - (h) Surety code;
  - (i) Summary date of oldest underlying entry summary (if the reconciliation issue is value, HTSUS heading 9802 or classification);
  - (j) Date of import of oldest underlying entry (if the reconciliation issue is NAFTA);
  - (k) The total of the original duties, taxes, and fees (fees broken out by "class code") which were deposited on the underlying entries;
  - (l) The total of the reconciled duties, taxes, and fees (fees broken out by "class code");
  - (m) The total amount of interest deposited on filing of the Reconciliation.

**Please note:**

Customs is in the process of analyzing business-realistic options for interest calculation which are revenue- neutral and do not link to every underlying entry. A subsequent **Federal Register** notice will be published with any options for interest calculation. Until such further notice, interest must be calculated in accordance with 19 U.S.C. 1505; and  
(n) Comment field: This field is to be used to explain any details of the Reconciliation, e.g., assist declaration on part XYZ for the period 10/1/1998 -9/30/1999.

- ii. Association file - For both Entry-By-Entry and Aggregate Reconciliations, the association file will contain:

- (a) The underlying entry numbers, and ports of entry, which were previously flagged and grouped on the Reconciliation.



For Entry-By-Entry Reconciliations only, the following elements are also required:

- (b) The actual amount of duties, taxes and fees (fees broken out by "class code") deposited per underlying entry summary;
  
- (c) The reconciled amount of duties, taxes, and fees (fees broken out by "class code") which should have been paid for each of the underlying entries had the complete information been available to the importer at the time of filing the underlying entry summaries; and
  
- (c) If the Reconciliation results in additional duties or fees due Customs, the filer must deposit interest at time of filing the Reconciliation. Interest must be calculated in accordance with 19 U.S.C. 1505.
  - iii. Line item data - The line item data for both the Entry-By-Entry and Aggregate Reconciliations will NOT be filed via ABI. For both types of Reconciliation, this data will be submitted both in hard copy and in commercial spreadsheet format via diskette. The data elements shown below will be required for this portion of all Reconciliations. Each reconciliation line item will be consolidated for all of the underlying entries listed in the association file. Each combination of HTSUS, country of origin, Special Program Indicator (SPI) and calendar year of release will require a separate line. This line item data shall be presented in the format shown in the sample spreadsheet below:

DURANT MOTOR CORP. -- RECONCILIATION DETAILS

PERIOD: 10/1/1999 THRU 3/31/2000

Rec. Line	Cal. Year	Reason	Port	Original SPI	Revised SPI	HTS Quantity	Original Value	Reconciled Value	Additional Value	Original Duty %	Revised Duty %	Duty Change*	MPF Change*	HMF Change*
1	1999	Royalty	JP			4011 1010 00	\$16,300,451	\$16,544,958	\$244,500	4.00%	4.00%	\$9,780.28	\$0.00	\$305.63
2	2000	Royalty	JP			4011 1010 00	\$5,751,916	\$5,838,195	\$86,279	4.00%	4.00%	\$3,451.16	\$0.00	\$107.85
3	1999	Assist	MX	MX	MX	5704 9000 90	\$685,2318	\$721,54318	\$36,317	2.60%	2.60%	\$944.24	\$0.00	\$45.40
4	2000	Assist	MX	MX	MX	5704 9000 90	\$623,966	\$657,03666	\$33,070	2.60%	2.60%	\$859.82	\$0.00	\$41.34
5	1999	R&D	KR			7007 1100 10	\$3,201,101	\$4,601,298	\$1,400,197	5.60%	5.60%	\$78,411.03	\$0.00	\$1,750.25
6	2000	R&D	KR			7007 1100 10	\$2,604,538	\$3,015,562	\$411,024	5.60%	5.60%	\$23,017.34	\$0.00	\$513.78
7	1999	9802	All	US		9802 0080 65	\$7,801,810	\$6,943,611	(\$858,199)	0.00%	0.00%	\$0.00	\$0.00	(\$1,072.75)
7a	1999	9802	All	DE		8421 3940 00	\$4,001,201	\$4,859,140	\$858,199	0.80%	0.80%	\$6,865.59	\$0.00	\$1,072.75
8a	2000	9802	All	US		9802 0080 65	\$6,537,984	\$5,818,806	(\$719,178)	0.00%	0.00%	\$0.00	\$0.00	(\$898.97)
8b	2000	9802	All	DE		8421 3940 00	\$3,549,751	\$4,269,469	\$719,718	0.80%	0.80%	\$5,757.74	\$0.00	\$899.65
9	1999	Assist	EG	A	A	8804 0000 00	\$961,000	\$1,037,088	\$76,880	0.00%	0.00%	\$0.00	\$0.00	\$96.10
10	2000	Assist	EG	A	A	8804 0000 00	\$63,250	\$68,310	\$5,060	0.00%	0.00%	\$0.00	\$0.00	\$6.33
11a	1999	Class.	46	JP		4011 1050 00	\$160,000	\$32,000	(\$128,000)	3.60%	3.60%	(\$4,608.00)	\$0.00	(\$160.00)
11b	1999	Class.	46	JP		4011 1010 00	\$0	\$128,000	\$128,000	4.00%	4.00%	\$5,120.00	\$0.00	\$160.00
TOTAL ADJUSTMENT											\$129,087.21	\$0.00	\$2,867.34	

\* Duties, Taxes & Fees must be individually broken out for each Rec. line.

(a) The Bureau of the Census has certain requirements for specific reconcilable issues:

(i) Classification: Reconciliations for classification must include the data elements of quantity and port(s). (The port(s) may be reported at the first two digit level, e.g., Port 4601 = 46.) If "ALL" is indicated in the "Port" column, Census will understand that the change provided by that line applies to all ports in which the importer entered the subject merchandise.

A Reconciliation of a classification change requires that the summarized data lines must be connected to illustrate the shift from one HTS classification to another. In the spreadsheet which appears above, an example is included in which a ruling determined that a portion of the merchandise entered under HTSUS subheading 4011.10.5000 should have been classified under HTSUS subheading 4011.10.1000 (lines 11a and 11b of the spreadsheet). The data provided in the Reconciliation must show Customs and Census

which portion shifted from the original HTS classification to the reconciled HTS classification, and which portion did not change. The classification change illustrated in lines 11a and 11b of the spreadsheet resulted in an increase in duties due Customs, *i.e.*, the portion of the merchandise that changed classification went from a 3.6% to a 4% duty rate. This example could be filed as an Entry-by-Entry or Aggregate Reconciliation. Remember: should the classification change result in a decrease in duties, taxes, and fees, the Reconciliation must be filed as an Entry-By-Entry Reconciliation.

(li) HTSUS heading 9802: Similar to classification, a Reconciliation of HTSUS heading 9802 must also provide the port(s) covered (port(s) at the first two digits), and a link between the original data submitted and the reconciled data. Census needs to be able to capture the shift in value, in order to know how to adjust the statistics for both the HTSUS Chapter 1 - 97 provision and for the HTSUS heading 9802 provision. An example of a 9802 change is also provided in the spreadsheet above.

Should the HTSUS heading 9802 change result in a decrease in duties, taxes, and fees, the Reconciliation must be filed as an Entry-By-Entry Reconciliation.

h. Payment - If the Reconciliation results in a revenue change, Customs will issue one bill or refund per Reconciliation. If the Reconciliation results in additional duties, taxes, or fees due Customs, payment must be made via check or Automated Clearing House at the time of filing the Reconciliation. In such cases, the filer must deposit interest at time of Reconciliation filing. If the Reconciliation results in a refund due the importer, Customs will issue the refund within 30 days of liquidation of the Reconciliation. Final interest will be assessed or refunded as appropriate pursuant to 19 U.S.C. 1505.

i. Liquidation of Reconciliation -

i. The Reconciliation will be reviewed and liquidated, and one bill or refund issued if a revenue change is appropriate. Importers will recognize that there may be instances where no bill or refund is necessary. Interest will be calculated in accordance with 19 U.S.C. 1505. The liquidation of the Reconciliation will be posted to the Bulletin Notice of Liquidation.

li On a matter of dispute, the importer may follow normal protest procedures (pursuant to 19 U.S.C. 1514) with regard to any decision pertaining to the liquidation of the Reconciliation.

#### **ELIGIBILITY CRITERIA**

1. Participants must be capable of filing the underlying entry summary and Reconciliation information electronically, via ABI.
2. Adequate bond coverage must exist for the Reconciliation. Participants must have on file a rider and a continuous bond, which will be obligated on the underlying entries and used to cover the Reconciliation.

#### **REASONABLE CARE AND RECORDKEEPING**

Under the statutory mandate of 19 U.S.C. 1484, the importer is responsible for using reasonable care in declaring at entry, among other things, the proper value, classification and rate of duty applicable to imported merchandise. The public is reminded that the obligation to use reasonable care applies to all aspects of this prototype, including the filing and flagging of the underlying entries and the filing of the Reconciliation.

Auditable and verifiable financial records must be the basis for any Reconciliation. Accordingly, the importer is required to maintain all records to support the Reconciliation, whether an Entry-By-Entry or Aggregate Reconciliation, pursuant to Customs recordkeeping laws, and maintain a system of records providing an audit trail between the data provided in the Reconciliation and the importer's books and records.

Upon request by Customs and/or Census, further information in support of the Reconciliation must be provided by the importer. For example, Customs may, for verification purposes, request that the importer break down a certain [HTSUS/country of origin] line by part number, contract number, etc., and provide

the documentation to support the change made at that level. The importer will have to track the adjustment to entry if requested by Customs. Census may in certain circumstances request that the yearly change for a given [HTSUS/country of origin/SPI] be broken down to quarterly adjustments, in order to capture seasonal fluctuations.

#### **APPLICATION TO PARTICIPATE IN THE ACS RECONCILIATION PROTOTYPE**

This prototype is open to all importers. As stated above, this prototype will serve as the exclusive means to reconcile entries, outside of any other Customs-designated prototypes. This notice requests importers to apply for participation in this prototype by submitting the following information:

1. Importer name and IRS number;
2. Broker name(s) and filer code(s);
3. Surety name(s) and surety code(s);
4. Bond coverage (reconciliation rider mentioned above);

A copy of the rider and identification of the port in which the continuous bond and rider are filed must be included in the application.

5. Commodities (description and HTS no.) covered under the Reconciliation;
6. Port(s) at which underlying entries and Reconciliation will be filed;
7. Port location from where ABI transmission will be sent (may be same as #6);
8. Number of entries anticipated to be covered by the Reconciliation;
9. Detailed description of specific issue(s) to be reconciled; and
10. Point of contact and telephone number.

The application may be submitted by the importer's broker and/or attorney, if duly authorized. This information should be submitted by March 31, 1998 to Ms. Shari McCann, Reconciliation Team, U.S. Customs Service, 1300 Pennsylvania Ave, NW, Room 5.2A, Washington, DC, 20229-0001. By applying to participate in this test, the importer is agreeing to participate pursuant to the terms of the test as defined in this notice.

Applications may be submitted until the start of the prototype and throughout the duration of the prototype. Priority review will be given to applications received by March 31, 1998. Applicants will be notified in writing of their acceptance or denial into the prototype. Applicants are reminded that they cannot begin participation in the prototype until they have received acceptance from Customs. An applicant who has been denied participation in the prototype may re-apply after 30 days of the notice of denial. An applicant may appeal a denial within 30 days of the notice of denial to the Director, Trade Compliance.

Interested candidates should note that participation in this test will not constitute confidential information, and that lists of participants will be made available. All laws and regulations concerning commercial confidential information apply.

#### **MISCONDUCT UNDER PROTOTYPE**

If a filer attempts to submit data relating to prohibited merchandise, abuses reconciliation by using it when the reconciliation issue is not truly undeterminable at time of entry summary; fails to exercise reasonable care in filing underlying entries or Reconciliations; fails to abide by the terms and conditions of this notice; submits entry types not authorized for reconciliation; is consistently late in filing the Reconciliation or depositing duties, taxes, and fees; fails to supply Customs with sufficient supporting documentation for the Reconciliation; is habitually delinquent in the payment of bills from Customs; or otherwise fails to follow the applicable laws and regulations, then the participant may be suspended from the prototype, subject to liquidated damages, penalties, and/or other administrative sanctions, and/or prevented from

participation in future prototypes. Any action commenced by Customs for misconduct may be appealed through existing procedures or, if none exist, to the Director, Trade Compliance, within 30 days of the action.

### **REGULATORY PROVISIONS SUSPENDED**

Certain requirements of § 113.62 of the Customs Regulations (19 CFR 113.62), pertaining to basic importation and entry bond conditions, will be suspended during this prototype. Certain provisions in Parts 141 and 142 of the Customs Regulations (19 CFR 141 and 19 CFR 142), pertaining to entry, in Part 159 of the Customs Regulations (19 CFR Part 159), pertaining to liquidation of duties, and in Part 181 of the Customs Regulations (19 CFR 181), pertaining to the North American Free Trade Agreement, will also be suspended during this prototype.

Absent any specified alternate procedure, the current regulations apply.

### **TEST EVALUATION CRITERIA**

Participants are strongly encouraged to participate in the evaluation of the ACS Reconciliation Prototype. Interim evaluations of the prototype will be published on the Customs Electronic Bulletin Board, and the results of the final prototype evaluation will be published in the **Federal Register** as required by 19 CFR 101.9(b). The following evaluation methods and criteria have been suggested:

1. Baseline measurements to be established through data analysis and questionnaires;
2. Reports to be run through use of data analysis throughout the prototype; and
3. Questionnaires from both trade participants and Customs to be used before, during and after the prototype period.

Customs may assess any or all of the following evaluation criteria from both Customs and the trade participants:

1. Workload impact (workload shifts/volume, cycle times, etc.);
2. Cost savings (staff, interest, issuance of fewer checks or bills, tracking refunds/bills, reduction in contingent liabilities, etc.);
3. Policy and procedure accommodation;
4. Trade compliance impact;
5. Problem resolution;
6. System efficiency;
7. Operational efficiency;
8. Statistical needs; and
9. Other issues identified by the participant group.

Customs will request that test participants be active in the evaluation, identifying costs and savings experienced in this prototype.

Dated: February 3, 1998

Audrey Adams  
Acting Assistant Commissioner, Office of Field Operations