HTSUS 9801.00.10 – U.S. GOODS RETURNED
TECHNICAL INFORMATION FOR PRE-ASSESSMENT SURVEY (TIPS)

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PART 1 BACKGROUND

The objective of this document is to provide guidance in performing a Pre-Assessment Survey (PAS) of the company's internal control for merchandise entered under HTSUS 9801.00.10 (9801) and in evaluating the results.

Generally Accepted Government Auditing Standards require the PAS team to obtain a sufficient understanding of internal control to plan the audit and determine the nature, timing, and extent of tests to be performed.

The guidelines and terms in this documents are based *on Assessing Internal Controls In Performance Audits,* GAO/OP 4.1.4, published by the United States General Accounting Office, Office of Policy, September 1990, and the American Institute of Certified Public Accountants *Statement on Auditing Standard's No. 78*.

PART 2 HTSUS 9801.00.10 GUIDANCE

To qualify for 9801, articles of the United States must be exported and returned without having been advanced in value or improved in condition by any manufacturing process or other means while abroad.

To receive the benefit of these provisions, the importer must also comply with 19 CFR 10.1(a), which states, in part, "Except as otherwise provided for in paragraph.(g), (h), (I) or (j), the following documents shall be filed in connection with the entry of articles in a shipment valued over $2,000 and claimed to be free of duty under subheading 9801.00.10 or 9802.00.20, Harmonized Tariff Schedule of the United States (HTSUS) (1) A declaration by the foreign shipper…(2) A declaration by the owner, importer, consignee, or agent having knowledge of the facts regarding the claim for free entry."

19 CFR 10.1 allows the Port Director to waive these documentation requirements if other information reasonably satisfies the requirements of HTSUS 9801.00.10. Also, 19 CFR 10.1 allows the Port Director to request additional documentation or evidence to substantiate the claim for duty free treatment when necessary.

The following conditions preclude the use of 9801 (except 9801.00.70 and 9801.00.80):

- Drawback has been claimed on the articles. See 19 CFR 10.3.
- The article was manufactured or produced in a Foreign Trade Zone, exported from a bonded warehouse, or entered under a Temporary Importation Bond.
- The articles were subject to internal revenue tax. See 19 CFR 10.3.

2.1 EXAMPLES OF RED FLAGS

The following examples are conditions that may indicate a potential problem in 9801.00.10.

- The company has insufficiently documented, poorly defined, or no internal control for accurately declaring 9801.00.10 for Customs purposes.
  - ✓ The company does not monitor or interact with the broker on 9801.00.10 issues.
  - ✓ The company relies on one employee to handle 9801 issues, and there are poor or no management checks or balances over this employee.

  - ✓ The company does not maintain documentation, such as certificates of origin and manufacturers' affidavits, to support U.S. origin.
  - ✓ Company Customs staff lack knowledge of 9801.00.10 eligibility requirements.
- The company offers unreasonable explanations to Customs inquiries.
- The company fails to cooperate with or respond to Customs.
- The company has a high turnover of people in key Customs positions.
- Significant variance exists between the importer's data and Customs data.
- Customs (e.g., import specialist, account manager, compliance measurement, prior audit, other profile information) shows a history of problems with 9801.00.10 claims .
- The company has many drawback claims.
- The company has large amounts of merchandise produced in a Foreign Trade Zone, exported from a bonded warehouse, or entered under a Temporary Importation Bond.

2.2 EXAMPLES OF BEST PRACTICES

- Internal controls over 9801.00.10:
  - ✓ Are in writing;
  - ✓ Include procedures for monitoring and feedback; and
  - ✓ Are approved by management.
- One manager is ultimately responsible for control of the Import Department, including ensuring eligibility of merchandise entered under 9801.00.10. That manager has knowledge of Customs matters and the power to ensure that internal control procedures for imports are established and followed by all company departments.
- Written internal control procedures assign duties and tasks to a position rather than a person.
- The company has good interdepartmental communication about Customs matters.
- The company conducts and documents periodic reviews of 9801.00.10 merchandise and uses the results to make corrections to entries and changes to its import operations as appropriate.
- The company obtains documentation supporting U.S. origin prior to claiming 9801.00.10.

2.3 EXAMPLES OF DOCUMENTS AND INFORMATION TO REVIEW

- Written internal control policies and procedures for ensuring proper 9801.00.10 eligibility
- The company's response to the questionnaire
- Interviews with company staff concerning actual procedures and controls specific to 9801.00.10
- Company documentation that supports monitoring and verification of established and/or written internal control for 9801.00.10, such as:
  - ✓ Manufacturer's affidavit or certificate of origin declaring U.S. origin
  - ✓ Entry documents (e.g., CF 7501, commercial invoice)
  - ✓ Export documents
- Internal and external audit reports

PART 3 RISK ASSESSMENT AND INTERNAL CONTROL GUIDANCE

PAS team judgment should be used to determine the type and amount of testing needed to evaluate how effective internal control is and to determine whether there is a sufficient risk to warrant proceeding to Assessment Compliance Testing (ACT).

Using the Chart and the guidelines below, determine through limited judgmental testing whether the company's internal control is effective.

To determine the extensiveness of internal control testing, it is necessary to evaluate:

1. **Risk**; and

2. The **internal control** system, by determining whether the controls are in operation, how the controls were applied, how consistently they were applied, and who applies them.

3.1 RISK

A. Preliminary Assessment of Risk

Before any audit work begins at the company the team should make a preliminary assessment of risk (PAR) using information obtained from Customs or publicly available information. The purpose of the PAR is to evaluate identified potential risks to Customs based on analytical reviews of Customs data and other Customs information. This review will identify areas of potential risk and eliminate some areas with insignificant risk. The PAR should be conducted using the form in Attachment 1 to the PAS Audit Program.

Preliminary Assessment of Risk Examples

Example A: Low Risk Assessment

Account Profile and Customs Automated Commercial System (ACS) data identified a total entered value of $117 million in FY 2000, with $10 million entered under HTSUS 9801.00.10. No problems were reported in the Account Profile or in the team's discussion with the import specialist and account manager. Therefore, the preliminary assessment of risk is low because the value of 9801 imports is low.

Example B: High Risk Assessment

Account Profile and ACS data identified a total entered value of $90 million during the current fiscal year, of which $30 million was declared as American Goods Returned. The Account Profile reported that merchandise entered under HTSUS 9801 increased by about 20 percent over the past 3 years, and compliance measurement (CM) exams resulted in discrepancies surrounding Country of Origin issues. Therefore, the preliminary assessment of risk is high due to the value of the 9801 imports, the increase in claims, and CM discrepancies.

B. Evaluation of Risk Acceptability

After the audit work begins with the company the team will refine the assessment of risk. After all audit work has been completed the team will determine whether risk is acceptable or unacceptable using the PAS Audit Program as summarized in the following steps.

- Determine what activities pose a significant risk to Customs.

- Test the existence, effectiveness and implementation of internal control and determine if internal control is adequate to control risk.

- Using the results of the internal control review, develop an opinion whether risk is acceptable or unacceptable.

3.2 INTERNAL CONTROL

To evaluate the internal control system:

1. Consider the five components of internal control:

   - Control environment
   - Risk assessment
   - Control activities
   - Information and communication
   - Monitoring

2. Review relevant Customs and company documents to identify and understand relevant internal control over 9801.00.10. (Examples of documents and information to review are above.)

3. Determine whether the company established and follows procedures. Review:

   - Documentary evidence of the results of periodic internal control reviews/testing and corrective action implemented
   - Documentary evidence of communication with the broker and company departments on 9801 issues, including company testing of broker operations and verification that the broker followed company instructions
   - Documentary evidence that company-specific rulings are requested and followed
   - Documentary evidence of intercompany communications to ensure correct information is provided to Customs
   - Training records and materials used to educate staff on Customs matters
   - Documentary evidence that the company can support the U.S. origin of the imported merchandise
   - Documentary evidence that the merchandise was exported from the United States without payment of drawback
   - Documentary evidence that the merchandise was not produced with materials imported temporarily under bond or manufactured or produced in a Customs bonded warehouse
   - Documentary evidence that the company ensures that the merchandise was not advanced in value or improved in condition while abroad
   - Documentary evidence that the imported merchandise is the same as the exported articles identified

4. Review written policies and procedures and interview applicable company personnel to complete appropriate sections of the Worksheet for Evaluating Internal Control (WEIC) for 9801.00.10 in PART 4 of this document.

   Note: The internal control assessment should include steps to:

- Identify and understand internal control.
- Determine what is already known about control effectiveness.
- Assess the adequacy of internal control design.
- Determine whether controls are implemented and effective.
- Determine whether transaction processes are documented.

3.3 EXTENSIVENESS OF AUDIT SAMPLE TEST (TESTING LIMIT)

The purpose of limited PAS testing is to take a survey in order to determine the necessity for and extent of substantive tests. In some circumstances, the PAS team may decide that it probably will not be able to form an opinion based on limited PAS testing. In such cases, it may be necessary to proceed immediately to the ACT process. If the PAS team believes that it can form an opinion based on limited PAS testing, it should test the appropriate number of controls and associated transactions using the table below. Tests may be appropriate for various areas below the HTSUS 9801.00.10 level that will be reported on. For example, the company may import from several foreign companies, but testing may be necessary only for certain companies or only for certain 9801.00.10 declarations that have been identified as the primary risks.

Extensiveness of Audit Tests

PAR Level	+	Preliminary Review Internal Control	=	Extensiveness of Audit Test	Testing Limit
High		Weak Adequate Strong		High Moderate to High Low to Moderate	10-20
Moderate		Weak Adequate Strong		Moderate to High Moderate Low	5-15
Low		Weak Adequate Strong		Low to Moderate Low Very Low	1-10

Source: Adapted from *Assessing Internal Controls in Performance Audits.*
Column titled "Testing Limit" reflects Customs test sizes.

Example: Validation of Company Control Activity

One of the company's internal controls over 9801.00.10 is that it reviews every 15th 9801.00.10 transaction to ensure that 9801.00.10 transactions are properly declared. The company maintains a "9801.00.10 Review Log" to document this review process. To determine internal control effectiveness, the PAS team may decide to verify that the company review procedure identifies incorrectly declared 9801.00.10 and that the company takes appropriate corrective action, including improved procedures to avoid future improperly declared 9801.00.10.

The PAS team may select a limited number of reviewed items from the "9801.00.10 Review Log" to verify that 9801.00.10 was properly reviewed to determine accurate declaration of 9801.00.10, and that any incorrectly declared 9801.00.10 entries were corrected (causes identified and procedures corrected to ensure future compliance) and reported to Customs. In addition, the PAS team should verify that the company took action to avoid future improperly

declared 9801.00.10 after such errors were identified. In order to do this, the PAS team should verify that the same types of improperly declared items were correctly declared on subsequent entries. The following are examples of some of the tests that can be performed to determine whether 9801.00.10 is accurately declared:

- Trace through the importer's inventory, export bill of lading, and importation documents that 9801.00.10 merchandise claimed is eligible.
- Conduct third-party verifications to verify value and origin.

3.4 EVALUATION OF PRE-ASSESSMENT SURVEY TESTING RESULTS

The following steps are guidance for determining the effectiveness of the company's internal control over 9801.00.10.

1. Complete the WEIC FOR 9801.00.10 to determine whether risk is acceptable or unacceptable and document why. Put results of testing in perspective and evaluate confirmed weakness as a whole. The evaluation should consider the results of the internal control testing, problems identified in the profile, and/or concerns raised by the import specialist or account manager. The team must evaluate the PAS results based on the specific situations.

2. The following will help the PAS team determine whether conditions warrant proceeding to ACT.

   Do not proceed to ACT if:
   - Cost-benefit analysis warrants no further effort, (do not spend a significant amount of resources to identify a potential loss of revenue considered insignificant.) and
   - The result of review indicated that the error was due to an isolated incident.
   - If substantive tests necessary to determine a compliance rate or revenue loss can be performed quickly and without extensive effort, the team should immediately perform the substantive tests without proceeding to ACT.

   Proceed to ACT if:
   - The company does not have adequate internal control and the review indicated a material loss of revenue that cannot be quantified without statistical sampling or further review.
   - The importer will not quantify the loss of revenue.
   - The company refuses to take corrective action on systemic errors and it is necessary to calculate a compliance rate to evidence significant non-compliance.

   Note: If substantive tests necessary to determine a compliance rate or revenue loss can be performed quickly and without extensive effort, the team should immediately perform the substantive tests without proceeding to ACT.

3. Determine whether referrals should be made for enforcement action.

3.5 EXAMPLES

The following examples of situations that might be encountered under the PAS are *for clarification purposes only.*

Example A: Situation in which the team would not proceed to ACT (Compliance)

This example is based on the assumption that this merchandise was purchased from a U.S. supplier.

Export of U.S. Merchandise
The company's procedures manual requires the Material Management Department to maintain serial numbers and value of 9801 merchandise in the inventory system. When goods are shipped to a foreign site, the Shipping Department notifies the Customs Department of the merchandise being exported, including the serial number, value, and reason for export. The Customs Department in turn maintains a log of exported parts to match with entries when the entry package is received from the Customs broker.

Import of Previously Exported Merchandise
The company's written procedures require the Customs Department to obtain a declaration from the foreign shipper that the goods are of U.S. origin and were not advanced in value or improved in condition while abroad. The company also requires foreign shippers to include the part's serial number in the commercial invoice and packing list. The Customs Department is also responsible for submitting this declaration to the Customs broker with instructions to include it with the entry package. Finally, the Customs Department reviews all entries filed by the Customs broker to ensure that required documentation was included in the entry package.

Pre-Assessment Survey
To determine whether these controls are working, the PAS team:
- ✓ Interviewed employees to determine whether they are familiar with the procedures established in the Customs Compliance Manual
- ✓ Selected five parts, verified the proof of U.S. origin, and traced the parts through the inventory system from the time of export to the time of import
- ✓ Reviewed the shippers' declarations maintained by the company for the five sample items

Because the PAS team was able to verify that controls are in place and working effectively, proceeding to ACT was not considered necessary.

Example B: Situation in which the team would not proceed to ACT (Revenue)

The circumstances are the same as those in example A above, except that the company failed to maintain manufacturers'/shippers' declarations to prove that the merchandise was of U.S. origin and was not advanced in value or improved in condition while abroad for the past fiscal year. The company agreed with the PAS findings and was able to quantify loss of revenue caused by not being able to support 9801 eligibility. Therefore, proceeding to ACT was not considered necessary.

Example C: Situation in which the team would proceed to ACT (Compliance)

The circumstances are the same as those in example A above, except that the company disagreed with taking proper corrective action. The company was noncompliant with specific Customs regulations, failed to monitor compliance with Customs requirements, and did not

agree to take corrective action. It is necessary to calculate a compliance rate. Thus the audit team proceeded to ACT.

Example D: Situation in which the team would proceed to ACT (Revenue)

The circumstances are the same as in example B above, except that the company was not able to quantify the loss of revenue caused by not being able to support 9801 eligibility. Therefore, proceeding to ACT was considered necessary.

PART 4 WORKSHEET FOR EVALUATING INTERNAL CONTROL (WEIC) -HTSUS 9801.00.10 (U.S. Goods Returned)

PURPOSE: To determine whether 9801.00.10 risk is acceptable.

The completion of this worksheet provides evidence that the five components of internal control: Control Environment, Risk Assessment, Control Activities, Information and Communications, and Monitoring were evaluated.

During this phase of the process, an internal control review will be completed and factors for internal control related to an assessment of Risk including Internal Control Red Flags, Susceptibility, Management Support and Competent Personnel will be considered. The completion of this worksheet provides evidence that these factors were evaluated.

All answers must be linked to supporting documentation.

OBJECTIVES:

Section 1 - Internal Control Questions	Consolidate information learned about internal control through interviews and document reviews to form a preliminary assessment of internal control before testing. For work paper reference column titled "Is Implementation of Control Supported by Documentation and/or Interviews," confirm that the control is implemented through: • Interviews and requesting evidence from the company and • Reviews of documents that provide evidence that the company completed the activity.
Section 2 - Preliminary Internal Control Assessment	Use information consolidated in Section 1 to make a preliminary assessment whether internal control is strong, adequate, weak or nonexistent.
Section 3 - Sample sizes	Use the Preliminary Assessment of Risk (PAR) Level and the Preliminary Internal Control Assessment to determine the sample size for each sample.
Section 4 - Results of Sample Testing	Use information in Section 4 to record the results of PAS testing to evaluate whether internal control is effective to provide reasonable assurance of compliance.
Section 5 - Risk Opinion	Use information in section 1-4 to record the PAS opinion that risk is acceptable or unacceptable

Section 1 – Internal Control Questions

No.	Internal Control (IC)	Yes	No	Work Paper Reference		Comments
				IC Manual Page Number	Is Implementation of Control Supported by Documentation and/or Interviews?	
1.	Does the company have formally documented internal control to assure that 9801 is correctly declared?					
2.	Does management approve written policies and procedures?					
3.	Does the company review and update written policies and procedures periodically?					
4.	Is internal control over 9801 periodically tested and results documented? (This should include post-entry reviews to verify correctness.)					
5.	If the company found weaknesses during internal control testing of 9801, did the company correct internal control procedures and entries when appropriate?					
6.	Do written internal control procedures assign 9801 to a position rather than an individual?					
7.	Does one individual have authority to ensure that internal control procedures for 9801 imports are established and followed by all company departments?					

No.	Internal Control (IC)	Yes	No	Work Paper Reference		Comments
				IC Manual Page Number	Is Implementation of Control Supported by Documentation and/or Interviews?	
8.	Do personnel responsible for 9801merchandise have adequate knowledge and training in classification?					
9.	Does the company have adequate interdepartmental communication about 9801?					
10.	Does the company have procedures to request Customs assistance on 9801 merchandise when needed and is advice followed when given (e.g., requesting binding rulings)?					
11.	Does the company identify, analyze, and manage risks related to 9801?					
12.	Has the company identified any risks related to 9801 and implemented control mechanisms?					
13.	Do suppliers, engineers, the purchasing department, laboratory and others provide adequate descriptive information to the Import Department?					

No.	Internal Control (IC)	Yes	No	Work Paper Reference		Comments
				IC Manual Page Number	Is Implementation of Control Supported by Documentation and/or Interviews?	
14.	**Documentation**. Does the company's recordkeeping system include a retention program and identify documents needed to support 9801.00.10 claims?					
15.	**Documentation**. Has the company established a reliable system or procedure to produce any required entry documentation and supporting information?					
16.	**Origin**. Does the importer maintain manufacturers' affidavits or other documentation proving U.S. origin?					
17.	**Origin**. Do commercial invoices include country of origin, value, part number, and serial numbers?					
18.	**Origin**. Are part numbers for U.S.-origin components maintained in a database that is provided to the company's brokers?					
19.	**Advanced or Improved**. Does the importer maintain the assemblers' declarations or other documentation attesting to the fact that the merchandise was not advanced in value or improved in condition?					

No.	Internal Control (IC)	Yes	No	Work Paper Reference		Comments
				IC Manual Page Number	Is Implementation of Control Supported by Documentation and/or Interviews?	
20.	**Advanced or Improved**. Are descriptions of the assembly process obtained prior to making 9801.00.10 claims on new or revised products?					
21.	**Usage**. Does the importer have specific identifiers, such as serial numbers, to trace the merchandise through the inventory system?					
22.	**Value**. Does the importer have documentation to support the actual cost of 9801.00.10 claims?					
23.	**Non-qualifying**. Does the company have procedures in place to ensure that merchandise claimed under 9801 was not produced with materials temporarily imported under bond (Temporary Importation Bond) or produced in a bonded warehouse?					
24.	**Non-qualifying**. Does the company have procedures in place to ensure that drawback was not previously claimed on articles entered under 9801.00.10?					
.						
25..	Does the company provide adequate broker oversight to ensure proper 9801.00.10 declarations and data accuracy?					

No.	Internal Control (IC)	Yes	No	Work Paper Reference		Comments
				IC Manual Page Number	Is Implementation of Control Supported by Documentation and/or Interviews?	
26.	Does PAS testing verify that control procedures were being performed?					
27.	Do interviews with responsible persons support control procedures?					
28.	Does the company have adequate internal control to address specific issues identified in the profile?					
29.	List company-specific procedures and controls below (if applicable):					

Section 2 - Preliminary Internal Control Assessment

Use information obtained in section 1 above to make a preliminary assessment of internal control as strong, adequate, weak, or nonexistent.

	Strong	Adequate	Weak	None*
Internal Control				

***** If the team concludes that the company does not have internal control, risk is not acceptable so proceed to Section 5 below.

Section 3 – Sample Sizes

Use the matrix for determining Extensiveness of Audit Tests in section 3.3 of TIPS to determine the extensiveness of audit tests to confirm that internal control is effective. Multiple samples are possible. Samples and sample items should concentrate on risk.

Sample Area	PAR Level (High, Moderate, or Low)	Internal Control Level (Weak, Adequate, or Strong) From Section 2 Above	Testing Limit (1-20)

Section 4 - Results of Sample Testing

Use the results of sample testing to determine if internal control is effective.

Results of Testing	Yes or No
Is IC effective to provide reasonable assurance to preclude significant risk?	

Section 5 - Risk Opinion

Use the information developed in Sections 1-4 to record the PAS opinion that risk is acceptable or unacceptable.

Risk Opinion	Yes or No	Comments
Acceptable		

If risk is not acceptable the audit team may need to proceed to ACT or have company do quantification.