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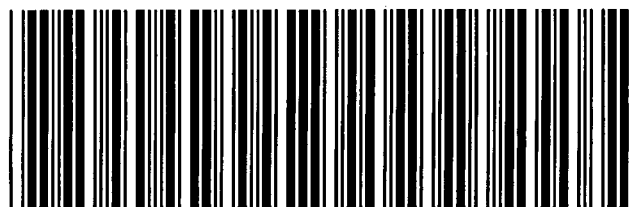
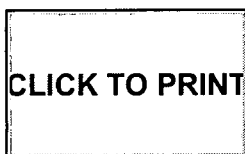
Hearing Title\*: Trade Department Authorizations & Study of Western U.S. Steel Market

(select subject from controlled vocabulary, if your office has one)

Category (1)\*: Trade

Category (2)\*: none

\* "required information"



FINANCECMTE

1 EXECUTIVE COMMITTEE MEETING

2 THURSDAY, JUNE 23, 1988

3 U.S. Senate

4 Committee on Finance

5 Washington, D.C.

6 The meeting was convened, pursuant to notice, at 10:05  
7 a.m., the Honorable Lloyd Bentsen (Chairman) presiding.

8 Present: Senators Bentsen, Moynihan, Baucus, Bradley,  
9 Mitchell, Daschle, Packwood, Danforth, Chafee, Heinz,  
10 Wallop, and Durenberger.

11 Also present: Allan L. Martin, Assistant Chief Counsel,  
12 Trade, Tariffs and Legislation, U.S. Customs Service.

13 Also present: Mike Mabile, Trade Counsel; Marcia  
14 Miller, Professional Staff Member; Brad Figel, Trade  
15 Counsel, Minority; and Karen Phillips, Chief Economist,  
16 Minority.

17 (The press release announcing the hearing follows:)

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ORIGINAL

1 The Chairman. This meeting will come to order.

2 Ms. Miller, will you go ahead on the presentation on the  
3 Office of the U.S. Trade Representative?

4 Ms. Miller. Yes, Mr. Chairman.

5 The document that we will be working from this morning  
6 is in front of you and it is entitled "Agenda". We would  
7 suggest that we begin by going to the authorization for the  
8 U.S. Trade Representative and the International Trade  
9 Commission.

10 The Chairman. That's fine. Start with that.

11 Ms. Miller. Those begin on page 2 of this document.  
12 The President's budget request for the U.S.T.R. requests  
13 \$15,393,000 in authorization for fiscal year 1989. This is  
14 basically a small increase to account for nondiscretionary  
15 increases. It would maintain the current staffing levels  
16 for the U.S. Trade Representative.

17 The ITC request, which is reflected at the bottom of the  
18 page and the top of page 3, requests an authorization of  
19 \$37,069,000. Again, this increase would foresee maintaining  
20 current staffing levels at 502 positions, and basically just  
21 requests an amount equal to the nondiscretionary increases  
22 that they would foresee in the budget.

23 We don't know of any particular amendments in these  
24 areas.

25 The Chairman. I really know of no controversy on these

1 two. Do you?

2 Senator Packwood. I would move we approve both this and  
3 the ITC, subject to our getting a forum here. In fact, we  
4 could do it without a quorum.

5 The Chairman. So would I, but I am afraid we would have  
6 a bit of a problem. And, hopefully, we will have a quorum  
7 before the meeting is over. Without objection, it will be  
8 done. Let's move on to Customs.

9 Mr. Mabile. Mr. Chairman, the Custom Service budget  
10 request is reflected on the first page of document A. The  
11 President's budget request has asked for small increases in  
12 the authorization -- appropriations for the Custom Service  
13 from \$966 million in salaries and expenses to \$966,903,000,  
14 and for operations and maintenance to their interdiction  
15 program from \$140 million to \$142,262,000.

16 Senator Packwood. I have one amendment on the Customs'  
17 budget when you are ready, Mr. Chairman.

18 The Chairman. Well that's fine. Let's go ahead.

19 Senator Packwood. Mr. Chairman, I have an amendment  
20 relating to Customs' uniformity. I believe Brad Figel has  
21 the Customs' uniformity amendment that I would like to pass  
22 out. I talked about it at the time of the hearing where we  
23 have this situation where when you bring in identical  
24 products, one Customs district values them lower than another,  
25 and it lends itself to form shopping with importers trying to

1 find a district where the Customs' duty will be the lowest.  
2 And there are differences of opinion.

3 I had initially thought the problem was principally on  
4 the West Coast, which is one Customs' district. It turns  
5 out it exists elsewhere, and so I have amended the  
6 amendment slightly from what I initially intended, to make  
7 it a by nation wide rather than just on the West Coast. It  
8 simply says this, that where there is a difference in  
9 Customs' duties levied on an identical product that the  
10 Custom Service will have 10 days to have reconciled the  
11 differences. If not, then the lowest fee that they levy  
12 will be the fee for that product no matter what port it is  
13 brought into. So it eliminates this problem of shopping  
14 about trying to find a local Customs director that will give  
15 you the best deal on your product and, therefore, unfairly  
16 favor one port over another.

17 The Chairman. Senator Packwood, I am sympathetic with  
18 the amendment, and I can certainly see reasons for it. I  
19 have some concern about 10 days. I understand that on the  
20 other side of that, that they can go up to two years at the  
21 present time, which is really unconscionable.

22 Senator Packwood. I initially had three days, so I  
23 went up 333 percent.

24 The Chairman. Do we have anything on the House side on  
25 this?

1 Senator Packwood. No. Which means that we could take  
2 it and --

3 The Chairman. Do we have the Customs Service here? Is  
4 the Customs Service represented here? Somebody has to  
5 accept some responsibility on this. Yes. Would you state  
6 for the record your name?

7 Mr. Martin. Good morning. Allan Martin, Assistant  
8 Chief Counsel for Trade, Tariffs and Legislation, U.S.  
9 Customs Service.

10 The Chairman. All right.

11 Would you comment on the amendment that is proposed by  
12 the distinguished Senator from Oregon?

13 Mr. Martin. Yes. I would have serious problems with  
14 it. I am speaking on behalf of the Agency, and as a legal  
15 advisor to the Agency, I would have serious reservations with  
16 the amendment. Of course, the protest avenue currently  
17 exists. And, in fact, in Customs' regulations if an  
18 importer finds that his merchandise is being treated  
19 differently than another importer, he can not only protest  
20 it but obtain a further review at the Headquarters level  
21 with regard to that issue.

22 There is nothing in that administrative procedure which  
23 would hold up the entry process. They can obtain their  
24 merchandise. They can dispose of the merchandise.  
25 Eventually the issue as to the proper duty rate would be

1 resolved at an administrative level. And, of course, if  
2 they are unhappy with the ultimate resolution, they have the  
3 right to judicial review.

4 So this amendment seems to be duplicitous when you look  
5 at the existing administrative procedure.

6 Senator Packwood. Not really, because this is not aimed  
7 just at the importer. You have got a situation where you  
8 have got lots of jobs on docks, dependent upon what is  
9 brought through that particular port. And if you have a  
10 2-year appeal period, and the importer continues to use some  
11 other port, maybe there is a complaint, maybe the importer  
12 eventually wins a case or some complaining importer who has  
13 been bringing in the product through another port for  
14 several years. But it makes a big difference in terms of  
15 the employment in the ports as to where those dutiable items  
16 are brought in.

17 So even though the importer may eventually be made  
18 whole, those who would have had the dock business are not  
19 made whole.

20 Mr. Martin. I would have two responses to that point.  
21 One is that it is correct that there is a 2-year limitation  
22 on the administrative consideration of a protest, but at the  
23 same time there is also a procedure by which an importer can  
24 actually file a request for expedited consideration, in  
25 which case we must resolve the issue within 30 days.

1           The other point is that any importer that feels that the  
2 ultimate decision is of that level of significance to his  
3 business, of course, we have the ruling procedure by which an  
4 importer can seek a ruling in advance of any importation  
5 and obtain a binding ruling in effect as to how we are going  
6 to treat the merchandise once it arrives.

7           Senator Packwood. Mr. Chairman, I would suggest we put  
8 it in. It is not in the House bill. Customs can lay out  
9 its objections in full when we go to conference on this,  
10 which I assume will be very soon, I hope.

11          The Chairman. Yes, I would think so. And I am  
12 certainly in concurrence with that and that is why I was  
13 asking specifically about whether or not there was a House  
14 provision, because if there is some flushing out of it that  
15 is necessary we would have time to do it.

16          You have so moved?

17          Senator Packwood. I so move.

18          The Chairman. Are there any objections?

19          (No response)

20          The Chairman. All in favor, aye.

21          (Chorus of ayes)

22          The Chairman. Opposed?

23          (No response)

24          The Chairman. Carried. Thank you.

25          Now, Mike, let me get into the question of the 700



1 additional people that we want in Customs, and to move that  
2 we do that--and I would like for you to flush that out for  
3 me--but as I understand it, the Senate Appropriations  
4 Committee is moving in that direction, and I am in concurrence  
5 with them. They have added \$79 million to the Administration's  
6 budget request for salaries and expenses, and that provides  
7 an additional 700 personnel positions. Is that correct?

8 Mr. Mabile. That is correct.

9 The Chairman. Well that certainly should provide for  
10 some additional service that we very much need. And I see  
11 it particularly down in my State along that border, and in  
12 the way of commercial services. I know too that we are  
13 talking about again a service that provides revenue to the  
14 Treasury, to the Government, and that on the margin for every  
15 dollar spent, you get approximately \$3.00 back, as I  
16 understand it.

17 Would you give me your comments on it?

18 Mr. Mabile. Yes, Mr. Chairman.

19 The Appropriations Committee has recommended an  
20 additional 700 positions as you mentioned at an additional  
21 \$79 million over the Administration's budget request for  
22 salaries and expenses. This differs somewhat from the  
23 approach taken from the House Committees. Both the House  
24 Appropriations and the Ways and Means Committee have asked  
25 for an additional 500 positions.

1           The Chairman. Well that would give us some  
2 flexibility if we went for the 700 here.

3           Mr. Mabile. That is correct. In conference, it might  
4 give us the ability to look at new information and come up  
5 with the right amount.

6           The Chairman. Well, gentlemen, I would like to propose  
7 that.

8           Senator Packwood. I second that, Mr. Chairman.

9           The Chairman. Are there further comments?

10          (No response)

11          The Chairman. If not, all in favor make it known by  
12 saying aye.

13          (Chorus of ayes)

14          The Chairman. Opposed?

15          (No response)

16          The Chairman. The motion is carried.

17          Mike, did you have some report language that you wanted  
18 to discuss?

19          Mr. Mabile. Yes, sir, we did. That was what I wanted to  
20 move to next. Two Senators' offices have sent around  
21 proposed report language to be included. As far as we know,  
22 there is no objection to that. The first is proposed by  
23 Senator Packwood. It has to do with a situation prevailing  
24 at the Customs' facility in Medford, Oregon, indicating  
25 that due to the growing problem of drug trafficking and drug-

1 related crime in coastal States, the Committee urges that  
2 Medford, Oregon be considered as a possible site for  
3 additional manpower. We know of no objection by any member  
4 of the Committee to that language.

5 The Chairman. All right. I assume you are ready to move  
6 that.

7 Senator Packwood. I am ready to move that language,  
8 Mr. Chairman, and it is so moved.

9 The Chairman. Without objection, it is passed.

10 Mr. Mabile. Senator Riegle has asked us to put before  
11 the Committee some language dealing with the Customs Service  
12 implementing audit procedures and enforcement plans for the  
13 new rules of origin under the Free Trade Agreement with  
14 Canada. The idea here is the Customs Service will have to  
15 do this under the Free Trade Agreement and the implementing  
16 legislation. It is simply urging them to move quickly and  
17 to establish the criteria and the guidelines.

18 The Chairman. Do you see any concerns with it, any  
19 objections to it that we have heard?

20 Mr. Mabile. We have heard none.

21 The Chairman. Are there any objections by members of the  
22 Committee?

23 (No response)

24 The Chairman. The motion has been made. All in favor of  
25 the motion make it known by saying aye.

1 (Chorus of ayes)

2 The Chairman. Opposed?

3 (No response)

4 The Chairman. The motion is carried.

5 Now we have a concern of Treasury as I understand it,  
6 insofar as the Cooperative Customs Service in Brussels,  
7 and that we are in arrears approximately \$1.6 million  
8 insofar as our dues.

9 Mr. Mabile. That is correct.

10 The Chairman. And they have asked that we handle this  
11 by an authorization on Customs.

12 Mr. Mabile. Yes, Mr. Chairman. The dues to Customs  
13 Cooperation Counsel, which is responsible for drafting a  
14 harmonized system and other efforts at harmonizing  
15 international Customs' procedures have fallen into arrears  
16 over the past three years. Apparently the appropriations  
17 given to it have been insufficient.

18 The Treasury Department has asked that we provide an  
19 authorization for that \$1.6 million that are in arrears. We  
20 would recommend that that authorization be a separate  
21 authorization from the salaries and expenses account so that  
22 any money that would be subsequently appropriated for it  
23 would not detract from salaries and expenses. And that report  
24 language would urge the Appropriations Committees to  
25 separately appropriate those funds.

1           The Chairman. Do you know of any concerns or problems  
2 with it?

3           Mr. Mabile. We don't know of any. I am not sure every  
4 office has heard of this proposal yet.

5           The Chairman. Do the members of the Committee have any  
6 objections to it?

7           (No response)

8           The Chairman. May I have a motion then?

9           Senator Packwood. So moved.

10          The Chairman. All in favor of the motion make it known  
11 by saying aye.

12          (Chorus of ayes)

13          The Chairman. Opposed?

14          (No response)

15          The Chairman. The motion is carried.

16          Mr. Mabile. Mr. Chairman?

17          The Chairman. Yes.

18          Mr. Mabile. There is one additional item of report  
19 language that was discussed in a meeting yesterday with  
20 legislative assistants relating to your proposal for 700  
21 additional positions for the Customs Service. And that  
22 would simply be that the report strongly urge that the  
23 additional funding authorized by the Committee be used to the  
24 greatest extent possible for beefing up resources of the  
25 Customs Service for commercial operations.



1 Mr. Chairman, on other occasions I have offered two  
2 amendments, both dealing with Customs' fraud. One part of  
3 the amendment would extend the statute of limitations to  
4 afford Customs' attorneys more time to pursue prosecution of  
5 violations under civil law. And the other would facilitate  
6 the access of Customs' attorneys to evidence presented for  
7 a grand jury for their use in civil proceedings. And in sum  
8 and substance, on the first, what I would like to do is  
9 change the statute of limitations to have the 5-year start  
10 running from the date of discovery in all cases, including  
11 those alleging negligence or gross negligence; have those  
12 statutes run from the date of discovery, not the date of the  
13 violation.

14 The second would permit, as I say, Customs Service  
15 access to grand jury material. The problems are not  
16 unrelated. The Customs Service often decides to go for  
17 negligence or gross negligence cases even when they believe  
18 there is a fraudulent activity, because once they give the  
19 material to a grand jury they have a hard time getting  
20 access until much later on, such as the U.S. Attorney's  
21 office might uncover, and, therefore, they are reluctant to  
22 turn cases that could in fact turn out to be fraud cases  
23 over to the grand jury system for fear not only of not being  
24 able to access information on a timely basis but also  
25 because of the problem of the running of the statute of

1 limitations, which for the negligence and gross negligence  
2 cases runs from five years from the violation, not of the  
3 discovery of the violation.

4 So while it is possible to separate these two issues,  
5 nonetheless, they deal with one in the same problem, which is  
6 why I hope we can adopt them. And I would like to ask the  
7 Administration if they have an opinion.

8 Mr. Martin. There is no doubt the Customs Service would  
9 support those amendments. It is a serious problem that we  
10 encounter every day. You have to make very quick decisions.  
11 And when the 5-year runs from the date of commission, and  
12 you discover the violations four and a half years after that  
13 point in time, you have to make very quick decisions as to  
14 how you are going to process the case. And the secrecy of  
15 grand jury proceedings is a serious problem, so that  
16 amendment would greatly assist our enforcement efforts,  
17 particularly in the commercial thought area.

18 Senator Heinz. Is it not true that the Customs Service  
19 when it may believe it has evidence of outright fraud,  
20 nonetheless, will decide to pursue only negligence or gross  
21 negligence actions because of the problem, both of the  
22 statute of limitations and the inability to access information  
23 developed for the grand jury?

24 Mr. Martin. With a slight modification. The decision  
25 will be to pursue the civil case. We will pursue it as



1 fraud. But the reason we make the decision is we recognize  
2 that we may not be able to sustain the case as a fraud case.  
3 And what we want to ensure is that if there is grossly  
4 negligent behavior that that penalty is protected. So that  
5 even though we are pursuing it as a civil fraud case, we  
6 are actually making the decision to protect the ability to  
7 pursue it as a negligent or grossly negligent case.

8 Senator Packwood. Mr. Chairman?

9 The Chairman. Yes, Senator Packwood.

10 Senator Packwood. I know Senator Heinz I think only  
11 brought this amendment yesterday and we have had no hearings.  
12 I have checked with just a very few number of the Customs'  
13 community, the business community. They obviously do not  
14 like the amendment because this is a significant change. It  
15 is one thing to have a 5-year statute of limitations as we  
16 have it now on negligence from the time of the violation,  
17 that five years on fraud from the time of the discovery.  
18 If you are going to change to five years from the time of the  
19 discovery on negligence--I am not talking about mere  
20 malfeasance--then you are going to say to everybody involved  
21 in the Customs' brokerage business and the import business  
22 five, 10, 15 years down the road we may decide to bring a  
23 negligence case against you. Not a criminal case, a  
24 negligence case. And, one, I think it is too long a period;  
25 two, I would like to have the Customs' community have a

1 chance to at least testify to this because they have not had  
2 any chance at all at the moment.

3 The Chairman. Well I would say also, Senator Packwood,  
4 I have some concern about the loosening of the provisions to  
5 protect the secrecy of the proceedings of grand juries.  
6 That disturbs me, because when you have a citizen under  
7 investigation we have traditionally felt very strongly about  
8 protecting the secrecy of that grand jury and loosening it  
9 even in a Customs' case. I don't know how far you would go  
10 once you start down that road.

11 Senator Mitchell. Mr. Chairman, may I address that  
12 subject?

13 The Chairman. Yes.

14 Senator Mitchell. We debated this in the Committee  
15 sometime ago. First, I want to say I am just shocked that  
16 the Administration endorses this proposal with respect to  
17 grand jury proceedings. And I would like to ask you, has  
18 this been cleared with the Justice Department and all of the  
19 other law enforcement agencies, the Administration, or is  
20 this just Customs speaking?

21 Mr. Martin. If I can clarify why I was supporting it.  
22 I have not read the amendment. What I am supporting is the  
23 modification of the Customs' statute, 1906.1621, which would  
24 run the 5-year period from the date of discovery in all  
25 cases as opposed to the date of discovery. If you amend that

1 statute then that alone would give us the time to process  
2 the cases with due reflection. The problem the Customs  
3 Service has is with its own statute, which says that the  
4 5-years runs from the date of the commission of the offense  
5 in the case of negligence or gross negligence conduct.

6 Senator Mitchell. Well the amendment presented would not  
7 only extend the statute, it would change in lose processes  
8 by which grand jury information in a criminal proceeding  
9 is made available for a parallel civil proceeding.

10 And my question is, do you endorse that, and is that the  
11 Administration's position?

12 Mr. Martin. Senator, again, I am glad you asked the  
13 question because I want to clarify that I am only speaking  
14 to this present statute.

15 Senator Heinz. Would the Senator yield for a response to  
16 his question?

17 Senator Mitchell. Sure.

18 Senator Heinz. The answer to his quesiton is yes. It  
19 also answers a point that Senator Packwood raised.

20 Senator Mitchell. The answer is yes, the Administration  
21 endorses that?

22 Senator Heinz. Yes. And I am going to give you the  
23 documentation in just a second. But this issue was first  
24 raised by me in this Committee, Senator Packwood, four years  
25 ago, in 1984.

1           The Chairman. Let me ask the Senator, did we have a  
2 hearing? Did we have testimony from the private sector on  
3 this?

4           Senator Heinz. Mr. Chairman, I cannot swear to how much  
5 testimony, but there have been various occasions where we  
6 have asked for comment. I do not think there has ever been  
7 a hearing specifically on the substance of this. But I  
8 would put in the record, if I might, a letter from the  
9 Department of the Treasury, Office of General Counsel, dated  
10 July 19th, 1984, which is a letter to Senator Dole, who was  
11 then Chairman of the Finance Committee.

12           It says at the beginning, "This response to your request  
13 for the Department's views on S. 2531 to extend the statute  
14 of limitations for fraud under the Customs' laws and to  
15 clarify the extent of the Government access to grand jury  
16 proceedings." That is precisely the amendment I am offering  
17 again today.

18           The Chairman. Let me say to the Senator --

19           Senator Heinz. If I may just conclude, Mr. Chairman.

20           The Chairman. All right.

21           Senator Heinz. At the conclusion, it says, "The Office of  
22 Management and Budget has advised that there is no objection  
23 from the standpoint of the Administration program to the  
24 submission of this report, which is a favorable report." The  
25 Department supported the enactment of S. 2531. So it is an

1 Administration position on both points.

2 The Chairman. Let the Chairman at this point say,  
3 because we have a vote coming up, frankly, I would prefer  
4 that we defer action on these two amendments until we have a  
5 chance to feel that we have heard from the private sector as  
6 to the reaction to the two. And I certainly have some  
7 strong misgivings about the second one as far as opening up  
8 the proceedings of grand juries.

9 Do you want to pose your amendment or not?

10 Senator Heinz. Mr. Chairman, I would like to divide the  
11 amendment, and since the first part has passed this  
12 Committee, maybe it won't again, but let me divide the  
13 amendment between the statute of limitations issue and the  
14 access to grand jury information and ask for a separate vote  
15 on each.

16 (The letter from the Department of Treasury Office of  
17 General Counsel appears in the appendix.)

18 The Chairman. I have no objection to that.

19 Senator Packwood. I will say again there is irrational  
20 statute of limitations, and what the Senator is asking is a  
21 very long statute of limitations for negligence. We are not  
22 talking about criminal. From the time you discover it, it  
23 is a very unusual -- we do not normally do that. And I would  
24 love to hear the private community testify. I understand  
25 why Customs likes it. The Government gives us 20, 25 years

1 to bring a negligence action. All the better. From their  
2 standpoint it makes it easier.

3 The Chairman. I share that.

4 Senator, you are proposing the first part of your  
5 amendment. Is that correct?

6 Senator Heinz. Yes, that's right, which is the extension  
7 of the statute.

8 The Chairman. All right.

9 Is there further discussion of it?

10 (No response)

11 The Chairman. You so move it. All in favor of the  
12 amendment make it known by saying aye.

13 (Chorus of ayes)

14 The Chairman. Opposed?

15 (Chorus of nos)

16 The Chairman. Now would you care to propose your  
17 second amendment?

18 Senator Heinz. I think the handwriting is on the wall.

19 The Chairman. Thank you very much.

20 (Laughter)

21 Senator Durenberger. Mr. Chairman?

22 The Chairman. Yes.

23 Senator Durenberger. May I ask just one question for  
24 the record?

25 The Chairman. Yes. Senator Durenberger.



1 The Chairman. Do I hear a second?

2 Senator Packwood. Second.

3 The Chairman. All in favor of the amendment make it  
4 known by saying aye.

5 (Chorus of ayes)

6 The Chairman. Opposed?

7 (No response)

8 The Chairman. The motion is passed.

9 (Whereupon, the Committee voted unanimously on Senator  
10 Packwood's amendment previously discussed.)

11 (Whereupon, at 10:53 a.m., the meeting was concluded.)

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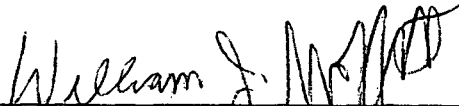
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## C E R T I F I C A T E

This is to certify that the foregoing proceedings of an Executive Committee Meeting of the United States Senate Finance Committee, held on June 23, 1988, were transcribed as herein appears and that this is the original transcript thereof.

  
WILLIAM J. MOFFITT  
Official Court Reporter

My Commission expires April 14, 1989.

UNITED STATES SENATE  
COMMITTEE ON FINANCE

EXECUTIVE SESSION

Thursday, June 23, 1988 -- 10:00 A.M.  
Room SD-215, Dirksen Senate Office Building

A G E N D A

1. The Committee will markup an original bill to authorize appropriations for fiscal year 1989 for three trade agencies:

- The United States Customs Service
- The Office of the United States Trade Representative
- The United States International Trade Commission

(See Staff Document A.)

2. The Committee will also consider approval of a draft letter requesting an International Trade Commission study of the Western U.S. steel market under section 332 of the Tariff Act of 1930.

(See Staff Document B.)

**AUTHORIZATION OF APPROPRIATIONS FOR THE UNITED STATES  
CUSTOMS SERVICE, THE UNITED STATES TRADE REPRESENTATIVE,  
AND THE UNITED STATES INTERNATIONAL TRADE COMMISSION**

(Prepared by the Staff of the Senate Committee on Finance)

Thursday, June 23, 1988

The Finance Committee will meet on Thursday, June 23, 1988, at 10:00 a.m. in Room SD-215 to mark up an original bill to authorize appropriations for FY 1989 for three trade agencies -- the U.S. Customs Service, the Office of the U.S. Trade Representative (USTR), and the International Trade Commission (ITC). Attached to this memorandum are the proposed budget requests for each agency.

**Customs Service**

This year the President's budget request calls for a small increase in appropriations for the Customs Service, from \$1.106 billion in FY 1988 to \$1.109 billion in FY 1989. The breakdowns are shown in the following chart. This proposed funding level assumes no change in staffing from the level of 16,099 full-time equivalents established for FY 1988 (this was increased from 15,610 in FY 1987).

**U.S. CUSTOMS SERVICE  
(Dollars in Thousands)**

	<u>FY 1988 Appropriation</u>	<u>FY 1989 Request</u>
Salaries and Expenses	966,000	966,903
Operations and Maintenance (air interdiction)	<u>140,000</u>	<u>142,262</u>
<b>TOTAL</b>	<b>1,106,000</b>	<b>1,109,165</b>

The Senate Appropriations Committee, in the Treasury, Postal Service, and General Government Appropriation Bill for FY 1989, has recommended an appropriation of \$1,046,000,000 for salaries and expenses. This amount is \$79,097,000 over the budget request, and would provide for hiring an additional 700 Customs personnel. The Appropriations Committee recommends the amount in the budget request for operations and maintenance of the air interdiction program.

**USTR**

As indicated in the following table, the President's budget request calls for a small increase in funding for the USTR, from \$15,229,000 appropriated for FY 1988 to \$15,393,000 for FY 1989, a \$164,000 increase. This does not envision any increase in staffing, which would remain at 146 full-time equivalents (FTE's).

**UNITED STATES TRADE REPRESENTATIVE**  
(Dollar Amounts in Thousands)

<u>FY 1988 Appropriation</u>		<u>FY 1989 Request</u>	
<u>FTE</u>	<u>Amount</u>	<u>FTE</u>	<u>Amount</u>
146	\$15,229	146	\$15,393

USTR's budget request for FY 1989 reflects increases in non-discretionary costs (rent and personnel compensation), offset by a number of miscellaneous savings. The request also includes a one-time, non-recurring expenditure of \$200,000 for the second phase of the upgrading of USTR's computer system (\$300,000 was included in last year's budget for the acquisition of new mainframes and related equipment; the new request would complete the acquisition of equipment).

The Senate Appropriations Committee, in the Departments of Commerce, Justice, and State, the Judiciary, and related agencies appropriations bill for FY 1989, has recommended an appropriation of \$15,383,000 for USTR. This is \$10,000 less than the FY 1989 request and is based on a one-percent increase over the appropriations amount for FY 1989.

**ITC**

As indicated by the following table, the ITC is seeking no increases in personnel or other resources for the coming fiscal year. (Note: The Congress increased the ITC's staffing level from 438 to 482 permanent positions in FY 1984, and to 502 positions in FY 1987.) The increase of \$2,319,000 in FY 1988 is intended only to cover non-discretionary cost increases. These are primarily additional costs for employee compensation, travel, supplies, and space rental (in January 1988 the ITC's former building was transferred to the Smithsonian Institution, and the ITC moved to new quarters).

**INTERNATIONAL TRADE COMMISSION**  
(Dollar Amounts in Thousands)

<u>FY 1988 Appropriation</u>		<u>FY 1989 Request</u>	
<u>FTE</u>	<u>Amount</u>	<u>FTE</u>	<u>Amount</u>
502	\$34,750	502	\$37,069

The Senate Appropriations Committee, in the Departments of Commerce, Justice, and State, the Judiciary, and related agencies appropriations bill for FY 1989, has recommended an appropriation of \$37,069,000 for the ITC, the amount of the FY 1989 request.

Attachments

OPERATIONS AND MAINTENANCE, AIR INTERDICTION PROGRAM

For expenses, not otherwise provided for, necessary for the hire, lease, acquisition (transfer or acquisition from any other agency), operation and maintenance of aircraft, and other related equipment of the Air Program; [\$140,000,000] \$142,262,000, to remain available until expended. [of which \$2,000,000 shall be available for construction of a hangar and administrative complex for the Customs Aviation Branch located in Albuquerque, New Mexico. Provided, That no aircraft or other related equipment, shall be transferred on a permanent basis to any other Federal agency, Department, or office outside of the Department of the Treasury during fiscal year 1988.] (Treasury Department Appropriations Act, 1988.)

February 18, 1988

DEPARTMENT OF THE TREASURY  
UNITED STATES CUSTOMS SERVICE

Federal Funds

General and special funds:

SALARIES AND EXPENSES

For necessary expenses of the United States Customs Service, including purchase of up to [seven hundred] one thousand motor vehicles for replacement only, including [six hundred eighty] nine hundred ninety for police-type use and commercial operations; [for additional purchase of up to two hundred fifty new passenger motor vehicles for police-type use and commercial operations] hire of passenger motor vehicles; not to exceed [\$10,000] \$110,000 for official reception and representation expenses including \$100,000 for the Customs Cooperation Council meeting; and awards of compensation to informers, as authorized by any Act enforced by the United States Customs Service; [\$966,000,000] \$966,903,000, of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031 (f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended (19 U.S.C. 58c(f) (3), shall be derived from that Account; of the total, not to exceed \$150,000 shall be available for payment for rental space in connection with preclearance operations, and not to exceed \$4,000,000, to remain available until expended, for research: Provided, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: Provided further, That none of the funds made available by this Act shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of \$25,000: Provided further, That the Commissioner or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Service. [ : Provided further, That none of the funds made available by this Act may be used for administrative expenses in connection with the proposed redirection of the Equal Employment Opportunity Program: Provided further, That none of the funds made available by this Act shall be available for administrative expenses to reduce the number of Customs Service regions below seven during fiscal year 1988: Provided further, That the United States Customs Service shall hire and maintain an average of not less than 16,099 full-time equivalent positions in fiscal year 1988: Provided

Salaries and Expenses, United States Customs Service

further, That none of the funds made available in this or any other Act may be used to fund more than nine hundred positions in the Headquarters staff of the United States Customs Service in the fiscal year ending September 30, 1988: Provided further, That no funds appropriated by this Act may be used to reduce to single eight hour shifts at airports and that all current services as provided by the Customs Service shall continue through September 30, 1988: Provided further, That not less than \$300,000 shall be expended for additional part-time and temporary positions in the Honolulu Customs District: Provided further, That \$600,000 shall be available only for the purchase of 6 additional mobile X-Ray Systems for the United States Customs Service.] (Treasury Department Appropriations Act, 1988.)



OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

FY 1989 PROPOSED REQUEST

Salaries and Expenses

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, \$15,393,000, of which \$1,000,000 shall remain available until expended: Provided, That not to exceed \$69,000 shall be available for official reception and representation expenses.

INTERNATIONAL TRADE COMMISSION

Federal Funds

General and special funds:

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed \$2,500 for official reception and representation expenses, [ \$34,750,000 ] \$37,069,000.

D R A F T

The Honorable  
Al Eckes  
Acting Chairman  
United States International  
Trade Commission  
Washington, D.C. 20436

Dear Mr. Chairman:

On behalf of the Committee on Finance, I request that the Commission conduct a study pursuant to section 332 of the Tariff Act of 1930 on the Western U.S. steel market. The study should analyze market conditions and assess the economic effects of the voluntary restraint agreements (VRA's) on steel-producing and steel-consuming industries in the Western region.

As you know, the volume of steel which can be imported into the U.S. market is currently restricted through a series of bilateral VRA's which were negotiated by the U.S. Government with most major foreign steel suppliers. Of concern to the Committee are the effects which the restraints are having on steel-consuming industries in 12 Western States. This area is geographically isolated from the major steel-producing regions of the United States, and has tended to rely on imports to a far greater extent than have other areas.

In assessing market conditions and the effects of the VRA's, please address the following issues:

- \* Structural changes which have occurred in the Western steel industry in recent years, including developments in Western States' capacity to produce raw steel;
- \* Consumption of steel mill products in the Western region;
- \* Patterns of supply to the Western region (i.e., the respective roles of imports, Western regional production, and nonregional U.S. production in the market);
- \* Factors limiting the use of domestically-produced steel manufacturing outside the Western region, including industry transportation costs;

The Honorable  
Al Eckes  
June \_\_, 1988  
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- \* Issues affecting the Western steel market with respect to steel imports from non-VRA countries, including the impact of steel exported from VRA countries to non-VRA countries for further manufacture and re-export to the Western U.S. market; and,
- \* Economic implications of continued import restraints on producers of steel products subject to the VRA's and selected major steel-consuming industries in the Western region.

To the extent feasible, the investigation should provide product by product market information on a nonconfidential basis, as follows: Semifinished steel, plates, sheets and strip, bars, wire rods, wire and wire products, structural shapes and units, rails and railway products, and pipes and tubes. The Western region should include California, Oregon, Washington, Idaho, Utah, Nevada, Arizona, New Mexico, Colorado, Wyoming, Alaska and Hawaii.

The Committee would appreciate receiving the final report on this investigation on or before March 31, 1989. Consistent with completing the report on a timely basis, a hearing in Washington, D.C. is desired. Please let us know if you require further information regarding this request.

Sincerely,

Lloyd Bentsen

Background on Senator Packwood's Custom Uniformity  
Legislation (S.1926)

A. Background

1. Customs brokers, importers and ports have been concerned that the Customs Service has not been applying Customs rulings uniformly. Inconsistent decisions among customs districts and regions have led to the assessment of different duties on identical or substantially similar merchandise. As a result of this inconsistency, a form of "port shopping" has developed -- meaning that an importer selects a port which gives the most favorable treatment to the incoming goods.
2. Customs inspectors are bound by precedent and there are existing procedures for protesting customs decisions or obtaining advance rulings from Customs headquarters. The difficulty is that these procedures take an enormous amount of time -- sometimes as much as two years. While these decisions drag out in time, ports are losing business.

B. Legislation

1. The customs uniformity legislation establishes an appeal mechanism whereby if there is an inconsistent Customs decision **between** any Customs region or **within** a customs region, an importer, customs broker or port authority can petition the Customs Commissioner to review the decision.
2. The Customs Commissioner has 10 working days to make a determination and reconcile the inconsistent decisions. If the commissioner fails to make a determination within the 10 days, each district or region must apply the lowest applicable rate of duty on the merchandise.