

1 EXECUTIVE COMMITTEE MEETING TO MARK UP H.R. 1833, THE
2 CUSTOMS AUTHORIZATION ACT OF 1999, AND THE STEEL TRADE
3 ENFORCEMENT ACT
4 WEDNESDAY, JUNE 16, 1999
5 U.S. Senate,
6 Committee on Finance,
7 Washington, DC.

Gilmour
61 pp.

8 The meeting was convened, pursuant to notice, at
9 9:38 a.m., in room SD-215, Dirksen Senate Office
10 Building, Hon. William V. Roth, Jr. (Chairman of the
11 Committee) presiding.

12 Also present: Senators Chafee, Grassley, Hatch,
13 Murkowski, Gramm, Mack, Thompson, Moynihan, Baucus,
14 Rockefeller, Breaux, Conrad, Graham, Bryan, and Robb.

15 Also present: Franklin G. Polk, Staff Director and
16 Chief Counsel; Mark A. Patterson, Minority Staff Director
17 and Chief Counsel.

18 Also present: Ambassador Richard Fisher, U.S. Trade
19 Representative; Grant Aldonas, Chief Trade Counsel; and
20 Faryar Shirzad, Professional Staff Member.

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1 OPENING STATEMENT OF THE HON. WILLIAM V. ROTH, JR., A
2 U.S. SENATOR FROM DELAWARE, CHAIRMAN, COMMITTEE ON
3 FINANCE

4

5 The Chairman. The committee will please be in
6 order.

7 We are here today to mark up one House-passed bill
8 and one original bill. There are the Customs Authorization
9 Act of 1999 and the Steel Trade Enforcement Act of 1999.

10 I have to announce that we are going to have to sort
11 of restructure our morning. Of course, initially, I had
12 hoped to have a number of measures in addition to the two
13 we will consider this morning. These bills were the
14 Reauthorization of Trade Adjustment, an Extension of GSP,
15 CBI Trade Enhancement Proposal, and the African Growth
16 and Opportunity Act. But, because of the three votes we
17 will have this morning, we will have to postpone
18 consideration of those measures.

19 Senator Moynihan. Mr. Chairman, may I just note?

20 The Chairman. Yes, please.

21 The Chairman. One of these votes will be the Work
22 Incentives Act, which you will be managing.

23 The Chairman. Yes, that is correct. I might add
24 that the good Senator from New York has been a critical
25 sponsor of this same legislation.

1 There are also a number of other additional
2 legislative priorities that I would very much like to
3 have the committee consider as soon as possible. Trade
4 Negotiation Authority is on the top of that list, Senator
5 Moynihan.

6 Senator Moynihan. Yes, sir.

7 The Chairman. And I think it is essential that the
8 committee and the Senate take that up in the near future.

9 I also want to say to my good friend Senator
10 Moynihan, regarding his Wool Tariff Proposal, that I hope
11 that we will be able to reach an agreement on this issue
12 that will satisfy all those interested in this important
13 and sensitive matter.

14 Having said all of that, we have some important work
15 before us. The committee has invested much time and
16 effort in an exhaustive, top-to-bottom oversight of the
17 Customs Service.

18 Today, we will take up authorizing legislation that
19 reflects our finding from those hearings. It is
20 important, I believe, that we move this legislation now
21 in order to have sufficient time to effect the
22 appropriations process, which is under way.

23 As I mentioned, we will also consider a steel bill.
24 In taking up this legislation, I am also mindful of the
25 impending floor vote on the Steel Quota bill, for which I

1 believe we need to provide a constructive alternative.
2 We will have some comments when we turn to that bill.

3 I have accepted some modifications to the Customs
4 mark to address concerns raised by individuals. With
5 those modifications, I would like to encourage the
6 committee to allow us to report these measures without
7 further comment. I want to let the committee know that
8 we are under, as I said, a very, very tight schedule
9 today.

10 I will now turn to my distinguished colleague for any
11 comments he may have.

12 Senator Moynihan. Who would wish to set an example
13 by having nothing to say, save that we do have to get
14 trade negotiating authority for the President if we are
15 going to continue 60 years of trade policy.

16 Senator Chafee. I would like to make a brief
17 comment of thank you to the Chairman and the Ranking
18 Member for including a jewelry mark in this legislation.
19 We are very grateful for that. Thank you.

20 Senator Gramm. Mr. Chairman?

21 The Chairman. Yes.

22 Senator Gramm. I am a little bit confused about
23 what we are doing. Is it timely now to comment on the
24 Steel Enforcement Act?

25 The Chairman. No. We are on the Customs

1 legislation.

2 Senator Gramm. Well, Mr. Chairman, let me say, I am
3 strongly in support of the Customs bill. I think it is
4 long overdue. I think it is important that we adopt it.
5 Then I think it is important that we work to see that the
6 money is actually provided. I think we are really
7 threatening the American economy by under funding
8 Customs.

9 Senator Mack. Mr. Chairman?

10 The Chairman. Yes, Senator Mack?

11 Senator Mack. Just very briefly. I was interested
12 in your comment with respect to Trade Negotiating
13 Authority. I guess after the vote yesterday, which I am
14 sure some people do not really see as being related to
15 protectionist policies, I was really troubled by the vote
16 yesterday in the Senate with respect to the steel, oil,
17 and gas loan guarantees.

18 I just see what has happened in the House, and I am
19 concerned now with these votes in the Senate, that
20 America may once again be turning toward protectionist
21 legislation. I think this committee has shown great
22 leadership in the past and I am heartened by your comment
23 about moving forward with what I would assume what you
24 meant was the fast track authority. I think it is vital
25 that we do that.

1 I think we need to take the initiative. I think we
2 have got to take the offensive. We have got to make a
3 statement, both to the President of his need for
4 leadership, but a message that goes around the world that
5 this country is going to continue its 60-year commitment.
6 I think this is the sixth year now that the President has
7 not had the authority. It is the longest time, at least
8 in modern history, that the President has not had that
9 authority.

10 So I would encourage you, at the earliest possible
11 moment, to bring that legislation to this committee, and
12 I hope we can move it forward.

13 The Chairman. I would say to the distinguished
14 Senator that, as he well knows, I share the same
15 sentiments. I feel very, very strongly about the
16 importance of moving ahead on liberal trade policies. As
17 part of that, it is absolutely essential that we move
18 ahead with negotiating authority being granted to the
19 President.

20 I would point out that this committee, I think, has
21 played a very responsible role. We did move ahead last
22 year with legislation in this area. I intend to follow
23 through again. I can think of nothing more disastrous
24 than for us to turn our backs on the global trade
25 economy.

1 Senator Moynihan. The Seattle Conference of the
2 World Trade Organization is five months away.

3 The Chairman. That is a very good point, and one of
4 critical importance. I intend for the committee to play
5 a key role as we move forward towards the Seattle
6 session.

7 Senator Baucus. Mr. Chairman?

8 The Chairman. Senator Baucus?

9 Senator Baucus. Mr. Chairman, two points. Number
10 one, I want to thank you very much for including in your
11 mark on the Customs bill the northern border study which
12 I suggested, which you have included.

13 I also want to, at this point, thank Commissioner
14 Kelly, because I have made similar suggestions to him. I
15 found him to be very receptive and very helpful as a
16 Customs Commissioner. I think he has been ill recently.
17 I hope he is having a very speedy recovery. He is a very
18 fine man and I think he has done a great job.

19 The Chairman. Could I just say, I join you in
20 wishing him a speedy recovery. I agree with you, I think
21 we are very fortunate in having a man of his caliber and
22 background in the leadership position at this time.

23 Senator Baucus. Mr. Chairman, with respect to fast
24 track, I think most of us on this committee would like to
25 see fast track enacted to give the President the

1 authority. We must realize, though, that it will not be
2 easy.

3 There are other interests that we must pay attention
4 to, must listen to, as we develop fast track legislation.
5 Labor provisions, are one. I am not saying what those
6 provisions should be, but I am saying that that is an
7 extremely important interest that we should pay very
8 close attention to in developing fast track legislation.
9 The other, is the environmental movement. You will
10 recall, on NAFTA, both the environmental conservation
11 movement and labor had some concerns about NAFTA. It
12 took some time for us to work those out.

13 So, it is true we must pass fast track legislation.
14 I very strongly agree with that. But it is also true
15 that we should not just sit here and say, yes, we are
16 going to do it very easily, because it is going to take
17 some work.

18 The work, essentially, is going to include working
19 out to different points of view so that a large number in
20 the House and the Senate are in a position to support
21 fast track. It is not going to be easy, but we must do
22 it.

23 The Chairman. Well, I would say to my distinguished
24 friend, no one is more aware than I of the need to
25 develop a consensus. That means there is going to have

1 to be some give and take on everyone's part if we are
2 going to reach the kind of conclusion I think we all
3 desire. We were able to do it last fall. I remain
4 optimistic that we can do it again.

5 Now, let me say, I just had the latest message. I
6 was going to announce that the earlier schedule of going
7 down at 10:15 had been canceled, but now I understand the
8 cancellation has been canceled. So, I know you are
9 confused, Senator Gramm. So am I.

10 Senator Gramm. A natural state of affairs.

11 The Chairman. We are on the Customs bill. I would
12 now move to strike all after the enacting clause and
13 insert the text of the Chairman's mark by this committee,
14 with the understanding that committee staff be permitted
15 to make any technical corrections that may be necessary.

16 Senator Moynihan. I second the motion.

17 The Chairman. All those in favor, say aye.

18 (Chorus of ayes)

19 The Chairman. Those opposed, say nay.

20 (No response)

21 The Chairman. The ayes have it.

22 Now I move to report favorably the House bill, as
23 amended, to the Senate. All those in favor, say aye.

24 (Chorus of ayes)

25 The Chairman. All those opposed, say nay.

1 (No response)

2 The Chairman. The ayes have it and the bill will
3 accordingly be reported. I just want to thank everyone
4 for their help and interest on this legislation. I think
5 it is an important initiative and I agree that it is
6 important that we follow through as it moves forward in
7 the Appropriations Committee.

8 Senator Moynihan. Mr. Chairman, I note that we do
9 have a quorum.

10 The Chairman. We will, next, turn to the Steel
11 bill. Are there any amendments to the Steel bill?

12 Senator Baucus. Mr. Chairman?

13 The Chairman. Yes, Senator Baucus.

14 Senator Baucus. Mr. Chairman, I have an amendment,
15 which I believe is being passed out. Essentially, your
16 mark directs the USTR to develop a comprehensive strategy
17 for the elimination of market-distorting practices in
18 steel around the world. This strategy would include a
19 number of elements enumerated in your mark.

20 Furthermore, according to the mark, USTR would then
21 report to the Senate Finance Committee and the House Ways
22 and Means Committee on that strategy within six months of
23 enactment of the bill, and consult with us on a regular
24 basis.

25 My amendment, Mr. Chairman, is that once this

1 strategy is completed and reported to the Congress, the
2 Congress would then have 30 days within which to pass a
3 resolution of disapproval of that strategy. The purpose,
4 obviously, is to ensure genuine and thorough consultation
5 with the Congress from day one.

6 That is, I believe the possibility--and my belief is
7 it would be only a possibility--of a vote to disapprove
8 would be very strong motivation for USTR and the
9 administration to work closely with the Congress and take
10 our views seriously and continuously into account and be
11 accountable to us at the end of the day.

12 My concern, frankly, is that there are a lot of
13 consultations, but they are not very meaningful between
14 the administration and the Congress. This is the same as
15 your mark, Mr. Chairman. The only addition that I would
16 make in my amendment is to, again, say that after the
17 comprehensive strategy is completed--talking about steel,
18 now--the Congress would then have 30 days to pass the
19 resolution of disapproval. Again, this just helps us
20 work closely together.

21 The Chairman. Any comments? Senator Gramm.

22 Senator Gramm. Well, Mr. Chairman, I am opposed to
23 this amendment. This amendment is clearly an effort to
24 bias the study before it is every undertaken. I think if
25 we are going to really let the administration look at it,

1 we ought to let them look at it and to develop a strategy
2 to set up a procedure where we are going to immediately,
3 on a highly-privileged basis where we are forced, in
4 violation of the Senate rules, to act in a certain period
5 of time, where there are limits on our ability to
6 consider alternatives. I just think it is bad policy.

7 Now, it is a little pimple as compared to Title II of
8 this bill, but I still think it is bad policy and I am
9 opposed to it.

10 The Chairman. Any further comment?

11 Senator Chafee. Mr. Chairman, it does seem to me,
12 we are micro managing what USTR is doing here. I am not
13 clear. Is it 60 days or 30 days?

14 Senator Baucus. There was some concern about 60,
15 Senator, so I have changed it to 30.

16 Senator Chafee. I see. It just seems to me, we
17 have got a USTR and we ought to give him or her some
18 latitude. To me, this looks like, again, I want to say,
19 micro managing.

20 Senator Baucus. Well, Mr. Chairman, if I might just
21 respond to both points.

22 The Chairman. Senator Baucus.

23 Senator Baucus. Yes, there is a bias. The bias is
24 toward consultation. Article I of the constitution says
25 the Congress sets trade policy. Not the administration,

1 the Congress. It is plainly printed in Article I of the
2 constitution.

3 I believe that, for anything to work well in this
4 country, there has to be, if not total consensus, at
5 least compromise. In our divided form of government,
6 branches have to work together and political parties have
7 to work together.

8 This will help make that happen because the
9 possibility of a motion of disapproval will help the
10 Congress and the administration to work together on what
11 seems to be a good policy. I do not call that micro
12 managing, I call that working together.

13 We are not telling the administration what it should
14 or should not do. We are not telling the administration
15 they must have CVD, or they must have 201, or they must
16 have 301. We are just telling them, work with us. At
17 the end of the day, if it sounds like it is reasonably
18 good, Congress will not pass the motion of disapproval.
19 The motion of disapproval is just that: we cannot amend,
20 we just approve or disapprove.

21 I might also say that there are motions of
22 disapproval in other parts of the law. Section 201 has a
23 motion of disapproval provision which has never been
24 used. It has never been used because it has not had to
25 have been used. But it does help.

1 We had a similar process in Jackson-Vanik. Twenty
2 times, a President has asked Congress to waive Jackson-
3 Vanik, and 20 times there have been motions to
4 disapprove. We did one, I guess. I am trying to
5 remember back with MFN with China and President Bush
6 vetoed, and his veto was sustained.

7 It is a mechanism that is necessary, in my judgment,
8 to help bring, under our divided form of government,
9 Articles I and II of the branches, working together. My
10 very strong prediction is that, if passed, it will not be
11 used. The fact that it is there will help bring us
12 together.

13 I think Senators will agree with me that the
14 consultations, in the past, are not much. I do not want
15 to denigrate them that much, really. I probably
16 exaggerate. But they are pretty weak.

17 And do not forget: we have a congressional
18 prerogative, under Article I, to set trade policy. It is
19 in the constitution. This helps Congress, working with
20 the administration, to set trade policy. It is not micro
21 managing at all because the motion for disapproval does
22 not say, do this, do that. It just says, approve or
23 disapprove. It is pretty simple.

24 Senator Chafee. Mr. Chairman?

25 The Chairman. Yes, Senator Chafee?

1 Senator Chafee. Just briefly, I think the Senator
2 is being pretty tough on the USTRs that have been up here
3 consulting. It seems to me, we have been consulted until
4 we are gasping for breath. This applies to Democratic
5 and Republican USTRs, no matter which ones they are. I
6 think they have been going overboard on the consulting.
7 We have met, and met, and met. So, I just do not see the
8 necessity for this.

9 Senator Rockefeller. Mr. Chairman?

10 The Chairman. Senator Rockefeller?

11 Senator Rockefeller. I would support Senator Baucus
12 because I think the consultation is not really how many
13 times Charlene Barshefsky, or her Republican counterpart
14 in a Republican administration, comes up here. It is,
15 what is it that the administration does about it?

16 The history is replete with U.S. Trade
17 Representatives who want one thing, and an administration
18 which does quite another for another set of purposes,
19 political or otherwise. I think Senator Baucus'
20 amendment is a good one.

21 The Chairman. Any further comment?

22 (No response)

23 The Chairman. Let me say, while I am sympathetic to
24 the goals and objectives of Senator Baucus, I, too, feel
25 that it is unnecessary and cumbersome. We have provided,

1 generally speaking, for extensive consultation in the
2 entire process. We also set forth in the legislation in
3 considerable detail the factors that Congress expects the
4 USTR to consider, and the actions that Congress expects
5 the USTR to consider taking.

6 I think the adoption of the amendment could prove
7 very difficult, if not unworkable, because it is not
8 exactly clear how a resolution of disapproval would work.
9 For example, would the passage of a disapproval
10 resolution repudiate the entire strategy or only parts of
11 it? Would the passage of a disapproval resolution mean
12 that the USTR could not take any action until she
13 develops a new strategy and gets congressional approval?

14 So, having said that, I would call for a vote. Those
15 in favor of the amendment will please signify by saying
16 aye.

17 (Chorus of ayes)

18 The Chairman. Those opposed, nay.

19 (Chorus of nays)

20 The Chairman. In the opinion of the Chair, the nays
21 have it. The nays are in majority and the amendment is
22 not agreed to.

23 Senator Moynihan. Mr. Chairman, lest we become
24 naysayers, I have a bipartisan amendment here for myself
25 and Mr. Hatch which addresses this question of the

1 administration negotiating suspension agreements, as has
2 been done in steel with Russia and Brazil, which sort of
3 avoid the trade laws. We have antidumping laws. We have
4 had them for half a century. They work. They are part
5 of our trade policy.

6 What this amendment would do that Senator Hatch and I
7 propose, and I think most agree here, is that, for a
8 suspension to take effect, it would have to have the
9 support from a majority of the industry, companies, and
10 workers. The Commerce Department calculates that. Do
11 you know how they calculate it? I do not know. But it
12 is an agreed upon index.

13 I take this matter to you, Mr. Chairman. This would,
14 except in the case of national security or a threat to
15 the economy, in which case the administration does not
16 require the support of the industry, those two
17 reservations. I think this is a reasonable restraint
18 practice that departs from our traditional trade laws.

19 Senator Gramm. Mr. Chairman?

20 The Chairman. Senator Gramm?

21 Senator Gramm. Mr. Chairman, I think it is a very
22 peculiar amendment. Maybe my thinking is so far out of
23 the mainstream and so hopelessly out of date that it is
24 not reflective of anything. But I cannot imagine that we
25 are going to let the steel industry vote on trade policy

1 related to steel.

2 Do we set steel policy to benefit the steel industry
3 or do we set policy to benefit the American economy, the
4 worker and the consumer? If we are going to let industry
5 vote on this, why not let the consumer vote on it? Why
6 not have a national referendum on it? I think this is a
7 very strange proposal and one that I cannot imagine that
8 we would seriously consider undertaking.

9 If we want Congress to exercise its constitutional
10 responsibilities in overseeing these agreements, if we
11 want to expand Congress' role in this whole antidumping
12 thing, I think probably we are biting off more than we
13 can chew, and in the end we would rather not do it.

14 I think that would at least have something that would
15 have some constitutional texture related to it. But the
16 idea of forcing the administration in carrying out an
17 executive duty under federal law, to get the approval of
18 the one group that has a biased opinion on each and every
19 subject related to it because it is their own vested
20 interest, to me, is a policy that should not be
21 undertaken.

22 I cannot imagine that we are going to have set out in
23 law a policy where we are supposedly looking to see, if
24 there is an unfair trade practice, the administration
25 decides to enter into a negotiation to deal with it. We

1 did that with Russia. Their imports have fallen off by
2 93 percent, and 100 percent on rolled steel. I would say
3 that is pretty effective. That is as much slamming the
4 trade door as I have ever seen.

5 But under this amendment, they would then be forced
6 to go to the industry. I guess you would take every
7 steel industry in America, maybe you would weight it by
8 the amount they produce or maybe you would have a
9 straight vote, and they would, in essence, determine, is
10 this policy, executed by the President under a law passed
11 by Congress, good enough to pass their muster? I think
12 this just reeks of special interest, almost at an
13 unimaginable level. So, I am strongly opposed to the
14 amendment.

15 Senator Moynihan. Could I respond, Mr. Chairman?

16 The Chairman. Senator Moynihan?

17 Senator Moynihan. I would simply note that the
18 suspension agreements have appeared in trade policy out
19 of nowhere, and in effect they terminate trade cases that
20 the industry has brought in the normal execution of our
21 trade policies. It appears to many of us that this is
22 not called for, unless that industry which has brought
23 those cases says, well, all right. Otherwise, go forward
24 with the regular procedures.

25 Senator Gramm. Could I just respond one more time,

1 and I will not belabor it because there is another issue
2 I want to talk about on the bill. I would be willing to
3 support letting them file another unfair trade practice
4 after the negotiated agreement if they are not satisfied
5 and start the process again. But I think this is a very
6 bad policy.

7 In fact, I do not know that I have seen a law where
8 we really write in one interest in a dispute as the final
9 arbitrator of a decision. I just think that we ought to
10 think a long time before we do it.

11 If we want to change the law to say that if steel
12 companies file a dumping suit for unfair trade practice
13 and the administration enters into a negotiated agreement
14 and they are not satisfied with it, then they ought to
15 have the right to refile the case. I could support that.

16 But I do not support letting the industry itself vote
17 on the administration policy and nullify executive action
18 flowing from law by the action of a private interest,
19 which represents only one side, and, in fact, the great
20 minority side, of any kind of trade dispute. I guess
21 that is my concern. If no one else shares it, obviously,
22 it is a lonely voice.

23 Senator Rockefeller. Mr. Chairman?

24 The Chairman. Senator Rockefeller.

25 Senator Rockefeller. I will have something to say

1 about this mark in a little bit. If I had been writing
2 this amendment I might have done it somewhat differently,
3 but I am going to vote for the amendment because I think
4 what Senator Moynihan is trying to get to here is that an
5 administration cannot have it both ways.

6 Let us say the steel companies go and take their
7 cases to the International Trade Commission, whatever the
8 result, and then come in and do a suspension agreement
9 which vitiates what the ITC has done. You cannot have it
10 both ways. That is what administrations tend to do. I
11 think what Senator Moynihan is doing here----

12 Senator Moynihan. And Senator Hatch.

13 Senator Rockefeller. [Continuing]. And Senator
14 Hatch, and hundreds of Republicans in the Senate are
15 trying to do here----

16 Senator Gramm. At least one of them is against it.

17 Senator Rockefeller. It was just some East Texas
18 humor, Senator, that I was trying to employ there.

19 In any event, I think it is an amendment which I will
20 be happy to support.

21 Senator Gramm. Could I make one more substantive
22 point, and I will be brief. The President has the final
23 determination, not the International Trade Commission.
24 The International Trade Commission can recommend anything
25 and, under the law, the President can say no. If every

1 member of the commission is for it, he can reject it. We
2 give him the final authority. So he is not asserting any
3 power that, in the end, he does not have.

4 Senator Rockefeller. Well, he is asserting that
5 power by going ahead with these suspension agreements.

6 Senator Gramm. Well, the point is, he has the
7 power, no matter what the commission does, to not act, to
8 refuse to do anything. In fact, every case goes to the
9 President for his final determination because the
10 commission does not have any power, under the
11 constitution, to act, only to recommend.

12 Senator Grassley. Mr. Chairman, could I ask the
13 counsel a question?

14 The Chairman. Yes. Senator Grassley?

15 Senator Grassley. Yes. It is in regard to, if this
16 amendment were here, and I know one of the suspension
17 agreements dealt with an agricultural product, tomatoes,
18 with Mexico, as an example. I suppose there are
19 thousands of tomato producers in America.

20 But in the case of another agricultural product, like
21 in my State, corn or soybeans, there would be hundreds of
22 thousands of producers around the United States. If
23 there were some sort of suspension in regard to an
24 agricultural product where you have hundreds of thousands
25 of producers, how would you get a consensus among the

1 industry to fulfill the obligation or the requirements of
2 this amendment if it were to become law?

3 Mr. Aldonas. Senator, there are already procedures
4 laid out in the law to determine standing that were
5 required as a result of the Uruguay Round Agreements Act
6 so that you have to establish that you have the support
7 of 51 percent of the industry simply to file the case.
8 Presumably, if the amendment went ahead, they would rely
9 on those same procedures to determine whether or not you
10 had 51 percent of the industry in support of a suspension
11 agreement.

12 Senator Grassley. And that is a feasible process
13 when you have hundreds of thousands of individual family
14 farmers producing something?

15 Mr. Aldonas. I do not want to underestimate the
16 difficulty of that, but they do have procedures that, of
17 course, the industry would have to follow simply to
18 establish standing to file the case in the first
19 instance.

20 Senator Moynihan. That is how you file a case. You
21 have some group.

22 Senator Baucus. Mr. Chairman?

23 The Chairman. Senator Baucus.

24 Senator Baucus. Mr. Chairman, I just think it is
25 important to point out here that antidumping and CVD are

1 different from 201. It has been said here that the
2 President has the final say, and that is only partially
3 true. That is true with 201, but it is not true with
4 antidumping and CVD cases.

5 Under dumping and CVD cases, it is, first, ITC which
6 determines whether there is injury, and Commerce, what
7 the amount is. It is essentially a trade issue. It is
8 not a political issue, it is a factual issue determined
9 by both ITC and Commerce.

10 The point here of Senator Moynihan and Senator Hatch,
11 is that the Presidential suspension then adds a dimension
12 of politics to something which is not supposed to be
13 political, it is supposed to be based on the facts. That
14 is, what measures should be taken with respect to dumping
15 and the interaction between ITC and Commerce.

16 But when the President does suspend, he is suspending
17 on a basis other than the determinations made by ITC and
18 Commerce. Theoretically, it is supposed to be national
19 security, but Presidents kind of bend that phrase
20 "national security," or they expand it for all kinds of
21 reasons.

22 So what we are saying here, we who support this
23 amendment, that these cases are supposed to be, and they
24 are initially decided, on the basis of commerce, not on
25 the basis of international politics.

1 When the President suspends a decision on the basis
2 of Commerce by making a political decision and
3 significantly expanding the definition of national
4 security, we believe that it is important to kind of put
5 this genie back into the bottle and help make sure that
6 commercial decisions are made on a commercial basis, and
7 decisions to suspend commercial decisions are made on a
8 commercial basis. That is the point of this amendment.

9 The Chairman. Senator Mack?

10 Senator Mack. Yes. I will be very brief. I must
11 admit, this is an area in which I have little direct
12 knowledge, so I am responding on the basis of what I have
13 heard here this morning. But it does seem to me that we
14 are giving the industry that has a vested interest a veto
15 over the administration's opinion. I find that
16 troubling.

17 Senator Moynihan. May I just say to my friend, and
18 I will conclude, that what this does is, when the
19 administration seeks to put an end to a legal process
20 that industry has begun, it gives the industry the
21 opportunity to say, no, let that process go forward.

22 The Chairman. It is my understanding that you agree
23 that this proposal be amended to provide for a national
24 security exception, and one with respect to the adverse
25 impact on the economy as well.

1 Senator Moynihan. Exactly so, sir. I believe it
2 has been amended in that regard.

3 The Chairman. I would say that, under those
4 circumstances, I am willing to agree to the proposed
5 amendment.

6 Senator Moynihan. Thank you, Mr. Chairman.

7 Senator Chafee. Mr. Chairman?

8 The Chairman. Senator Chafee?

9 Senator Chafee. Mr. Chairman, let me just say, I am
10 very uneasy about amending the countervailing and the
11 antidumping sections, and doing it in this way. To my
12 judgment, and you can correct me if I am wrong, but I do
13 not believe we have had a hearing on this particular
14 measure, or a similar measure thereto. Am I correct in
15 that we have had no hearing on this?

16 The Chairman. We had steel hearings.

17 Senator Chafee. We had steel, but I do not think we
18 got into this type of arrangement.

19 Senator Baucus. I do not know if you want to go
20 down that road, Senator, about not having hearings.

21 Senator Chafee. Well, I have always found it
22 helpful.

23 Senator Baucus. That is what we are going to say in
24 the future.

25 Senator Chafee. I just feel uneasy about what we

1 are undertaking here. Thank you.

2 Senator Grassley. Mr. Chairman?

3 The Chairman. Yes.

4 Senator Grassley. One other question to counsel.

5 That is, on the definition. Is it commonly understood
6 what an extraordinary threat is as far as our trade laws
7 are concerned, or maybe the applicability of some other
8 law with the same words, putting it in the trade law, or
9 is this a whole new definition that we are going to have
10 to work with?

11 Mr. Aldonas. If I understand the amendment
12 correctly, it is a phrase that would adopt the phrase
13 that is already in the International Emergency Economic
14 Powers Act, which has been subject to consistent
15 interpretation, I guess, by the Treasury Department in
16 imposing sanctions against foreign countries, not in an
17 import context.

18 Senator Grassley. Second, in regard to national
19 security, it was my understanding that we have used the
20 term "national interest" more than the words "national
21 security," in the President making some of these
22 determinations. National interest would be a little
23 broader in its application.

24 Mr. Aldonas. I think that is correct. That phrase
25 has come up in the context of Section 201 rather than in

1 the dumping or countervailing duty laws. Because there
2 was not this sort of restriction on the President's
3 authority in the past, there was not a question of waiver
4 authority that would get us into the definition of
5 exception of national interest. He did not have to make
6 that determination.

7 Senator Grassley. Under current law, a petitioner
8 can challenge a suspension agreement within 20 days. Why
9 would the ability to challenge an agreement not be enough
10 to satisfy the concerns that we are having in regard to
11 the present steel problems?

12 Mr. Aldonas. Well, if you think about the context
13 in which you litigate against the Commerce Department,
14 its decisions, particularly in an area where there is
15 considerable delegation of authority, would be subject to
16 substantial deference from the Court of International
17 Trade.

18 So, I think it is reasonable to conclude that it
19 would be difficult to challenge a decision in this area
20 by the President. It may not provide sufficient comfort
21 from the point of view of what are, at the end of the
22 day, parties to litigation.

23 Senator Grassley. Thank you, Mr. Chairman.

24 Senator Moynihan. Shall we vote, Mr. Chairman?

25 The Chairman. Yes. A recorded vote has been

1 requested. The Clerk will call the roll.
2 The Clerk. Mr. Chafee?
3 Senator Chafee. No.
4 The Clerk. Mr. Grassley?
5 Senator Grassley. No.
6 The Clerk. Mr. Hatch?
7 The Chairman. Yes, by proxy.
8 The Clerk. Mr. Murkowski?
9 The Chairman. Yes, by proxy.
10 The Clerk. Mr. Nickles?
11 The Chairman. No, by proxy.
12 The Clerk. Mr. Gramm, of Texas?
13 Senator Gramm. No.
14 The Clerk. Mr. Lott?
15 (No response)
16 The Clerk. Mr. Jeffords?
17 The Chairman. Yes, by proxy.
18 The Clerk. Mr. Mack?
19 Senator Mack. No.
20 The Clerk. Mr. Thompson?
21 Senator Thompson. No.
22 The Clerk. Mr. Moynihan?
23 Senator Moynihan. Aye.
24 The Clerk. Mr. Baucus?
25 Senator Baucus. Aye.

1 The Clerk. Mr. Rockefeller?

2 Senator Rockefeller. Aye.

3 The Clerk. Mr. Breaux?

4 Senator Breaux. Aye.

5 The Clerk. Mr. Conrad?

6 Senator Conrad. Aye.

7 The Clerk. Mr. Graham, of Florida?

8 Senator Moynihan. No, by proxy.

9 The Clerk. Mr. Bryan?

10 Senator Bryan. No.

11 The Clerk. Mr. Kerrey?

12 Senator Moynihan. Aye, by proxy.

13 The Clerk. Mr. Robb?

14 Senator Robb. Aye.

15 The Clerk. Mr. Chairman?

16 The Chairman. Aye.

17 The Clerk. The votes are 11 yeas, 8 nays.

18 The Chairman. The amendment is agreed to.

19 Now, we are going to recess for one hour, until

20 11:15.

21 [Whereupon, at 10:18 a.m., the meeting was recessed.]

22

23

24

25

AFTER RECESS

[11:32 a.m.]

1
2
3 The Chairman. The committee will please come to
4 order.

5 Senator Rockefeller?

6 Senator Rockefeller. We do not have a quorum here,
7 and I will stop when we do. Or I might. [Laughter].

8 What we are doing here, as I always respect, as the
9 Chairman knows, his work and his efforts--we have had
10 hearings on steel--I cannot really consider, though, that
11 the mark-up that we are having today responds in any way
12 to the steel crisis that we have in this country.

13 It is very interesting to me, because I am always
14 somebody who votes for fast track and all the rest of it,
15 and consider myself an internationalist, and all the rest
16 of it. I was brought up that way, and I have stayed that
17 way, even though I come from a State which is not
18 necessarily that way at all.

19 But it has always been my understanding that when, in
20 the National Football League, for example, if a
21 linebacker comes through and smacks a quarterback on his
22 helmet with his elbow, that he is penalized. One of the
23 reasons we have surviving quarterbacks in this country at
24 all levels is because there are rules about doing things
25 like that, and you cannot do them, and you are called for

1 them.

2 You have to pay, in this case, a penalty. You are
3 either thrown out of the game, or it is 15 yards, or
4 whatever it is. But there is a system of rules which
5 guides how even something like football is played. If
6 there were not, imagine the devastation and the injury
7 that would take place.

8 International trade strikes me as the most important
9 part of our economic future. In my State, I spend a
10 great deal of time overseas, trying to get overseas
11 investment and jobs into our State. I have been
12 successful in this and, in the process, I have been
13 talking about the global economy to the people of West
14 Virginia very vigorously. That was less well received at
15 the beginning; it is somewhat better received now.

16 But I have always believed that international trade,
17 no matter what the subject or what the commodity, works
18 best when you go by the rules that you have. I think
19 that is basically fairly true in life. If you have
20 rules, you follow the rules.

21 We have something called the Trade Adjustment Act of
22 1974. It has very clear views about dumping and
23 subsidies and the rest of it, circumvention, and lots of
24 other things. I think those ought to be followed. They
25 have not been. It started out, obviously--and I will not

1 make this a Texas A&M classroom presentation--in 1997
2 with the Asian crisis. All of a sudden, from all over
3 the world we started getting swamped with imports.
4 Imports which, in the first part of 1997, were below 23
5 percent, suddenly went to 34 percent. Thousands of
6 people started getting thrown out of work.

7 Actually, it is closer probably to 75,000 to 100,000,
8 in fact, because there are many people working in
9 unionized steel plants that have no strike clauses and so
10 they are "working," but they are probably sweeping floors
11 or cleaning machinery, but they are not making much steel
12 because it is stacked up to the ceiling and people cannot
13 sell their inventory because of cheaper imports that are
14 coming in because they are being illegally dumped or
15 illegally subsidized.

16 So we are at this mark-up and we have a variety of
17 amendments which I think are primarily of interest. I
18 will vote for some and I will vote against some. I will
19 not vote for the final package, because they do not
20 address the real problem of steel imports.

21 Steel imports is important, of course, to my State,
22 but it is important to Senator Moynihan's State, it is
23 important to every person's State here. It does, in
24 fact, deal with national security in ways in which almost
25 no other products do. The administration has been

1 unwilling to enforce our trade laws. The Clinton
2 Administration has been extremely weak on that. That is
3 why, when the point was brought up earlier about, our
4 U.S. Trade Representative might say something.

5 Well, for other reasons, the administration can just
6 ignore those things. In this case, they have. As a
7 result, there has been devastation in my State, and there
8 is devastation either now or about to happen when the
9 steelworkers' contract runs out in July across the
10 country.

11 I do not think that our purpose here is to stand back
12 and just kind of let that happen, or watch it happen, and
13 say, that is too bad. If they had comparative advantage,
14 maybe it would be different.

15 Well, the funny thing is, we do have comparative
16 advantage. We are down now in some of our plants to two
17 man hours per ton. We are the most efficient steel
18 industry in the world. We are the best steel in the
19 world. We could beat anybody if you play by the rules of
20 Adam Smith. But you cannot beat anybody if you do not
21 play by any rules at all, because they simply come in on
22 you.

23 Now, is that called protectionism? Is protecting the
24 head of a quarterback protectionism or is it sort of a
25 sensible thing to do in a rough sport, which is both

1 football and international trade, everybody jockeying for
2 advantage however they can get it?

3 The amendments before us do not stop illegal trade.
4 They do not stop knocking the quarterback in the head
5 with your elbow, and they do not make any pretense of it.
6 So this mark-up falls short of what I think is doing
7 anything about imports.

8 Now, I want to say one other thing. There was a vote
9 yesterday on an amendment that had to do with loan
10 guarantees. That vote has absolutely nothing to do with
11 imports. I am not criticizing that vote; I voted for
12 that vote. That vote has to do with loan guarantees and
13 short-term help for about 14 steel companies who will go
14 broke otherwise. But it has absolutely nothing, not one
15 whit, to do with imports.

16 The amendments which are being suggested here have to
17 do with the future. Section 201. I am on bills to
18 reduce Section 201 to make it compliant to WTO. But that
19 is the future. We have a steel crisis now.

20 Let me put it in more blunt terms. We have a steel
21 crisis which, in the history of recorded trade statistics
22 in this country, in any commodity at any time, there has
23 never been an import surge like there has been in steel
24 since mid-1977. Wheat, barley, whatever you want to call
25 it. There has never been anything that have matched the

1 import surge that got unloaded on an everlastingly
2 willing America like steel.

3 So am I fighting back? You bet I am. Am I
4 protecting our quarterbacks? You bet I am. That is the
5 way the game is meant to be played.

6 So I understand the Chairman is having his mark-up,
7 and I respect that. The Chairman has had hearings on
8 this subject, and I respect that. But to think that this
9 has anything to do with imports and with our present
10 steel crisis is simply not the case.

11 As I indicated of the 201 reform, Senator Specter and
12 I introduced that this year, we introduced it last year,
13 to bring ourselves into compliance with the WTO. People
14 say, well, a quota bill is a bad thing because it is not
15 in compliance with WTO.

16 Well, I would point out, it is also not in compliance
17 with international trade law which the Congress and the
18 President design and has been in effect. I can remember
19 back a number of years ago, President Reagan recognized
20 that with something called semiconductors.

21 I can recall a number of instances like that. At one
22 point, the Japanese were making television sets in one
23 particular country, they were exporting them to Mexico,
24 Mexico was adding one very tiny piece on it, and they
25 were therefore labeled as Mexican imports into the United

1 States. Of course, they were not. That is called
2 circumvention. We stopped that.

3 This particular company had to build a plant
4 employing 1,000 Americans so that they could not evade
5 the trade law. That is why you have trade law, so you
6 can preserve the quarterback's head and life. In this
7 case, it is human lives and thousands of them, and
8 families, and ways of life, and communities. There are
9 enormous moral and human consequences to it.

10 Now, people around here are very quick to have sort
11 of views. I am a free trader. I am this, I am that. It
12 is very hard for them to deal with gradations or with
13 present circumstances. I really regret that. I really
14 regret that.

15 I do not regret it today because the quota bill,
16 which incidentally will allow steel quotas up to 23
17 percent of imports, which, if it is at the 23 percent
18 level, in the last 30 years that would be more imports
19 than in any but 4 years. Actually, in any but three
20 years.

21 So it would be more generous in allowing imports from
22 other countries than at any time in the last 30 years,
23 with the exception of three years. So is that
24 protectionism?

25 Or when you jump from 23 percent imports to 34

1 percent imports in one year, when the administration
2 says, we are making a big difference, and you take the
3 first quarter of 1998, which was the worst time for steel
4 dumping, illegal dumping and subsidization, and then you
5 take the first quota of 1999, the period after which the
6 administration said, we have done all this, we are really
7 helping, we have made a big difference, please understand
8 that imports of steel have dropped only 5 percent from
9 the highest point of 1998. In the first quarter of 1999,
10 they have dropped a total of 5 percent, way above what it
11 has traditionally been.

12 So the quarterback's head, in the form of
13 steelworkers, human beings, their families that I deal
14 with all the time and that most people in this Congress
15 have to deal with a great deal, are pretty precious and
16 they are worth fighting for.

17 I will not support the Chairman's mark. I do support
18 the Chairman's earnestness and effort in having hearings
19 on steel. But I think our work has to be done on the
20 floor. I want to conclude, Mr. Chairman--and I
21 particularly appreciate your generosity since I have
22 over-used my time--with this point.

23 There are a lot of Senators, not just here but
24 elsewhere, who are saying, oh, we did that vote yesterday
25 on steel. Good. We have taken care of steel. No. No.

1 That was a coincidence of timing. It is going to help a
2 couple of steel companies get through the next year,
3 government loan guarantees. It has nothing to do with
4 imports.

5 Imports are the problem that we are facing. That is
6 the quarterback's head. That is protecting the rules of
7 the American game, that is protecting the free enterprise
8 system.

9 I would end by this. If we do not do that, the
10 patience of the American people towards our free trading
11 system, which I support and have been a vigorous
12 proponent of, and will continue to be, on fast track and
13 other things, that support is going to erode very, very
14 rapidly. It always is beginning to.

15 So those who, for the sake of not being labeled
16 protectionists, I think, falsely as opposed to people who
17 play by the rules of the game, which is going to be much
18 more important 10 years from now even than it is today as
19 international trade dominates the world economy in every
20 respect, I think we will find out that the intuition to
21 be generous towards international trade and open trade is
22 going to be declining in this country.

23 So, again, I respect the Chairman very much for his
24 efforts on this, but I cannot, and will not, support the
25 mark. I thank the Chairman for being so generous with

1 his time.

2 The Chairman. Thank you, Senator Rockefeller. We
3 are now open to further amendments.

4 Senator Gramm. Mr. Chairman?

5 The Chairman. Senator Gramm?

6 Senator Gramm. Mr. Chairman, I want to offer an
7 amendment. I would like to begin by just very briefly
8 talking about steel, and then go to the amendment.

9 One of the things that I agree with Senator
10 Rockefeller on, and the only thing, is his statement that
11 international trade is the most important part of our
12 future.

13 I have a very different view of what is happening in
14 steel. In 1980, we had 459,000 people making steel in
15 America. Today, we have 163,000. That was in 1997. But
16 we are producing 56 percent more steel today than we were
17 producing in 1980.

18 We have been losing an average of 9,000 jobs in steel
19 every year since 1980 because of technological change,
20 because of labor-saving reforms that have made steel far
21 more efficient.

22 Production of domestic steel in 1997 was at a record
23 high, not any kind of record low. We produced 105
24 million tons in 1997 that many people viewed as being
25 over capacity in the steel industry. The reason import

1 surged in 1997 was a critical shortage of steel, not
2 because of absence of domestic production--it was at an
3 all-time rate--but because of a surging economy that was
4 buying steel at an all-time rate.

5 In 1998, steel production was still near the all-time
6 high of 102 million tons. We are talking about, as
7 almost always happens in politics, a problem that has
8 already been solved. Steel imports are down from
9 November of 1998 to April, which is the last official
10 figure we have, by 28 percent.

11 Let me say that, while everybody is talking about
12 dumping, dumping, dumping, unfair trade, unfair trade,
13 unfair trade, does it strike anybody as funny that no
14 steel company, except a company that is producing wire
15 rod, has filed an unfair trade practice?

16 With all of this talk about dumping, not one steel
17 company in America has taken advantage of the laws that
18 exist. I would be willing to assert why that is the case
19 outside this one area of wire rods. I assert that that
20 is the case because, when you have lost 9,000 jobs a year
21 since 1980 because of technological change and the
22 assertion is you have lost 10,000 jobs this year because
23 of "unfair trade," it is a hard argument to make.

24 To set all of this in perspective, not in the least
25 bit being unsympathetic to steel workers, because we do

1 have the most open economy in the world, we are creating
2 7,500 jobs a day.

3 So, before we start dramatically changing the world
4 trading system to deal with an assertion of 10,000 jobs
5 having been lost when the average since 1980 in that
6 industry has been 9,000 due to technological change and
7 the trade that is occurring is creating 7,500 jobs a day,
8 I assert we ought to be pretty careful about what we are
9 doing.

10 Now, here is my concern, in a nutshell. We are in
11 the process now of bringing forward a bill that is, in my
12 opinion, so much more dangerous and so much more damaging
13 to the American economy potentially than what Senator
14 Rockefeller is proposing, that I would prefer his quota
15 bill as an alternative to what this committee is on the
16 verge of reporting.

17 Now, that sounds like a very strange statement, and
18 perhaps an overstatement. But let me argue why that is
19 not the case. Title II of this bill, after Title I has
20 all of these deals studying, can you find unfair trade
21 anywhere, could anything be done to help, and then let us
22 tilt the study by going ahead and having Congress judge
23 it, or tell them how we are going to judge it when they
24 come forward, all of that is simply bad policy that would
25 not make a whole lot of difference in the big scheme of

1 things.

2 But Title II of the Chairman's mark is a gratuitous
3 change in permanent trade law that is very dangerous for
4 the future of America. Let me explain why. We have not
5 talked about one amendment today that Section 201 was not
6 talked about. It is the foundation of American trade
7 policy.

8 Basically, what Section 201 does, it sets high
9 standards when a company wants to come in and limit the
10 ability of other companies to buy products produced
11 abroad. Here is how it works. I remind you, Section 201
12 has nothing to do with dumping, it has nothing to do with
13 illegally traded goods or illegal trading. What Section
14 201 has to do, is a claim by one company that it is being
15 hurt by foreign competition.

16 Now, the Chairman's mark would change the fundamental
17 trade law of this country permanently, and in doing so
18 does virtually nothing for steel. But it changes the
19 standard we set for denying Americans the right to buy
20 imports dramatically, and in doing so it is terribly
21 dangerous.

22 Now, here is how current law works. Let us say,
23 Senator Moynihan, you are producing computers and I am
24 selling you computer chips. Or let us say that Senator
25 Roth is producing automobiles or tractors and I am

1 selling him steel. Or let us say that Senator Chafee is
2 producing airplanes and I am selling him aluminum.

3 Now, suddenly there is a technological break-through
4 that does not happen in America, so the price of these
5 products starts to fall worldwide. Now, under current
6 law, I have to go in and say, A) I am being hurt by
7 foreign competition, and B) I have got to prove that this
8 foreign competition is a substantial cause of my problem
9 and that there is no other cause that is more important
10 in producing my problem than this surge of imports.

11 Now, why is this important? Why it is important, is
12 we produce 40 times more jobs using steel than we do
13 producing it. If we cannot buy chips competitively, we
14 are losing, probably, 100 jobs on the world market in
15 selling our computers where we dominate the world
16 commerce if we cannot buy competitive chips. If we
17 cannot buy aluminum, we will not continue to dominate the
18 aerospace industry.

19 So if I am an aluminum producer, a chip producer, or
20 a steel producer, I ought to have pretty strong reasons
21 that I am forcing the users of that product to buy my
22 product instead of them exercising their freedom to buy
23 products that are available to their competitors all over
24 the world.

25 Now, the argument that is made, is the World Trade

1 Organization has a lower standard than we do. Why do we
2 have a higher standard? Because we are the most
3 enlightened country in the world. Because we believe
4 that, when there is no evidence of unfair trading, when
5 there is no evidence of dumping, that there ought to be a
6 pretty strong case when we are going to jeopardize 40
7 jobs for every job we save.

8 So we set a standard, which is not an unreasonable
9 standard, of substantial cause. Substantial cause
10 basically is defined as, it is at least as important in
11 any other factor in producing your problems in my
12 examples, in steel production, aluminum production, or
13 chip production.

14 Now, for some reason which defies any logic that I
15 understand, this bill changes permanent trade law to drop
16 substantial. So, for example, let us say I am making
17 computer chips and let us say there is a big
18 technological breakthrough in Japan and the cost of chips
19 falls right through the floor in the world market. It
20 could happen tomorrow. It probably will not, because we
21 are draining the best brains from the world, bringing
22 them here. We have the most open system in the world,
23 and I thank God for it every day. But it could happen.

24 Now, what would happen under this bill if that did
25 happen? It would be much easier for domestic makers of

1 chips who do not hold the patents to do it cheaper, to
2 literally come in and cause us to lose 40 jobs in
3 computer production and sales abroad for every one job we
4 protect in computer chips.

5 Now, my point is, it is different than the world
6 standard, but it is different because we are the most
7 economically literate country in the world. I just want
8 to urge my colleagues, if we want to do something for
9 steel, do it.

10 If we adopted Senator Rockefeller's proposal, it is
11 temporary. It applies only to steel. It would be a
12 terrible policy. It might create a reaction from the
13 World Trade Organization. There might be offsetting
14 tariffs. But it would not be that big a deal. You might
15 destroy a million jobs. You might cause interest rates
16 to tick up. You might slow the expansion. But it would
17 not be that big a deal.

18 But if we change the fundamental trade laws of this
19 country and we lower the standards for 201, that is a
20 very, very big deal.

21 Now, it is true that the World Trade Organization
22 requires a lower standard. But the point is, when you
23 are going to limit the ability of manufacturers to buy
24 the cheapest components, which is a foundation of our
25 competitiveness, I believe standards ought to be high. I

1 just want to urge my colleagues to think long and hard
2 before we change these standards.

3 A final point. The lamb industry was able to make
4 201 work. They just got a favorable judgment. The broom
5 corn industry was able to make 201 work. If my lamb
6 producers in Texas can prove there is dumping under 201,
7 if people making brooms can prove there is dumping under
8 201, what is wrong with 201?

9 I think to lower the standard is very, very
10 dangerous. Who do we benefit by lowering the standard?
11 We benefit domestic component producers and raw material
12 producers. But for every one of them, there are 40
13 people who are potentially hurt. So we set a high
14 standard because we are enlightened.

15 Lowering this standard sort of gratuitously, I do not
16 see how it makes any sense. I know the administration,
17 when they were all panicked in the House that this quota
18 bill was going to pass, said, well, that would be a
19 better thing to do. But I think it shows you that this
20 administration does not understand trade very well.

21 Senator Rockefeller. Would the Senator yield?

22 Senator Gramm. I would be happy to yield.

23 Senator Rockefeller. Just a couple of points. It
24 has always been my view that Texas A&M has taken very
25 good care of its quarterbacks. That is one reason that

1 you do very well down there. Second, the Senator
2 mentioned earlier that people are not availing themselves
3 of 201 opportunities.

4 The Senator needs to understand that, whether it is a
5 Republican or a Democratic President--but in this case we
6 have a Democratic President. I had one conversation with
7 one of the largest steel companies, that we are not going
8 to bring a 201 case because we know we are not going to
9 get anywhere.

10 I have got the 201 thing before me here and I know
11 just as well as you do. There are a range of options.
12 The President gets to choose a range of options and the
13 steel industry does not trust that the President is going
14 to choose an option which is going to be of any benefit
15 to them whatsoever. So that is the reason you do not see
16 that happening.

17 You mentioned the market. Actually, I was kind of
18 curious yesterday, what happened, Mr. Chairman, just from
19 sort of an amusing point of view, because a lot of people
20 confused the Byrd bill with the quota bill. They do not
21 really know the difference.

22 They say, we have done that. We have done steel, now
23 let us go on to the next thing. You would have to assume
24 that the market was going to collapse. It went up 35
25 points yesterday, and when I left my office some time ago

1 it was up 130 day.

2 Senator Gramm. Great.

3 Senator Rockefeller. It is the question of, do you
4 value human life whether it is in a helmet on a football
5 field or when it is at work doing work more with a
6 greater comparative advantage, without any government
7 subsidy at all, unlike other countries, or do you not?

8 Senator Gramm. Let me respond, Mr. Chairman, and I
9 will be brief.

10 First of all, what the Senator is doing is not
11 protecting the quarterback. He is basically saying, if
12 some other team has got a better quarterback, you change
13 the scoring system where their score does not count as
14 much. Let me tell you, A&M is a bad example, because we
15 would have won the national championship three or four
16 times in the last 10 years if we had had a really good
17 quarterback. [Laughter].

18 Senator Rockefeller. That was before you upped your
19 subsidies.

20 Senator Gramm. But we have not had the luxury to
21 say, when we played Ohio State in the Sugar Bowl, now,
22 you guys have got a better quarterback than we do, so as
23 a result this is unfair. So, we want you to shackle him
24 in some way so that he is no better than our quarterback.
25 Now, we had a very good quarterback, but they had a great

1 quarterback.

2 The point is here, when you get the good player, you
3 ought to get the ability to use it. Second, what is
4 different between lamb and steel? What is different, is
5 the lamb producers had a case and they made it. The
6 plain truth is here, with all due respect, there is no
7 evidence that steel has presented that they have a
8 dumping case.

9 The idea that Bill Clinton is somehow not sympathetic
10 to the United Steelworkers, who helped elect him and
11 whose support is critical to his one desired legacy,
12 which is electing a Democrat successor, apparently, I
13 just find unbelievable. If they cannot do it with Bill
14 Clinton as President, they do not have the case.

15 Senator Rockefeller. That is the point. They
16 cannot do it with him President because of the fact that
17 he, like so many others, ignores what they say and
18 ignores the problems in the steel industry, and so many
19 others. That is the point.

20 It is not the question, is your quarterback better
21 than the other quarterback, it is the question of, is he
22 being protected under rules which work for all players on
23 the field at all times, at all games? That is, I think,
24 probably all anybody wants to hear on this subject for
25 the moment.

1 The Chairman. At this time, I would like to call on
2 Ambassador Fisher.

3 Ambassador Fisher. Thank you, Mr. Chairman.

4 I think it is important that we take stock, as the
5 Senators were saying, of where we are today. Senator
6 Gramm raised the subject, and Senator Rockefeller did as
7 well. If I may, I would just take a moment to remind you
8 of what the numbers are today.

9 That is, some of these have been referred to, but let
10 me be a little more specific here. Overall steel imports
11 in the first four months of this year are less than they
12 were in the same period of both 1998 and 1997. Overall
13 steel imports are below the pre-import surge levels and
14 they have been there for several months.

15 The April steel imports were 24 percent--I believe
16 you used the figure of 28, Senator Graham, but the point
17 is basically the same--below imports in the same month of
18 1998, and 9 percent below the same month in April of
19 1997.

20 Imports of hot rolled steel, which accounted for the
21 bulk of the import surge, Mr. Chairman, have also
22 returned to pre-crisis levels, down 73 percent from the
23 import peak. Imports from Japan and Russia have
24 virtually ceased.

25 We have a little graph here. I know it is hard to

1 see. But in terms of hot-rolled steel, which has been
2 the major source of the surge, you can see the numbers
3 this year. You can see the peak had been reached last
4 November, but the numbers this year are even lower than
5 the numbers, or at the same level as the numbers in 1997,
6 not just of 1998 in the beginning of the year. We are
7 happy to provide those numbers for you.

8 The important point is that imports from third
9 countries have not filled in the import reductions.
10 April carbon flat-rolled imports were 400,000 metric
11 tons. This compares to 580,000 metric tons in April of
12 1997, before the import surge.

13 Import penetration for finished steel products have
14 returned to the pre-crisis 22 percent level. I think a
15 point of interest to the committee is that the average
16 monthly imports in the first four months of this year,
17 Mr. Chairman, have been 2.3 million metric tons, which is
18 close to the 2.2 million metric tons which would be
19 mandated in the proposed quota bill.

20 I hasten to add, however, Senators, that we do not
21 accept this as a target. That is, due to strong demand,
22 it is quite likely that the quota bill targets, if
23 imposed, would create shortages.

24 But the point is, these import reductions and the
25 numbers that I have just reported to you, Senators, have

1 taken place during a period of continued strong U.S.
2 demand. The administration, Senator Rockefeller, has
3 acted forcefully and effectively. We remain vigilant.
4 We are doing what we can here. The numbers, I think, are
5 evidence of that. We continue to implement the trade
6 laws expeditiously and efficiently. We continue to
7 release import data early. We continue to monitor
8 imports.

9 Let me also add, we continue to press our trading
10 partners. Senator Rockefeller, you remember, I have
11 called you directly from Japan after conversations I have
12 had there, and also in Korea. We are pressing diplomacy,
13 again, to the fullest in this instance.

14 Senator Rockefeller. Diplomacy is a real winner
15 with the Japanese.

16 Ambassador Fisher. Well, we both share similar
17 views on that. But the fact is, I just think it is
18 important for the committee to have a sense of the
19 numbers and where we are today as opposed to where we
20 were in that period. We have seen some relief. We have
21 worked in the most earnest fashion, Senator, as an
22 administration to bring about that relief. The numbers
23 do report, indeed, some relief.

24 I would like to make just a quick comment on Senator
25 Gramm's point. Again, bearing in mind that I was only a

1 high school quarterback, Senator, and not a college
2 quarterback, we do believe that there is some room for
3 improvement in Section 201 consistent with our
4 obligations under the WTO. We are certainly of the view
5 that this aspect of what the committee is putting forward
6 is dramatically preferable to a quota legislation.

7 You mentioned, Senator, in your magnificent
8 discussion that we would, in your view, be jeopardizing
9 40 jobs for every one we would save if we were to pursue
10 this Title II portion of the proposed legislation here.
11 When you think about the price that would be paid from
12 steel quota legislation in terms of how it would threaten
13 our economy, in terms of how it would invite retaliation
14 against not just industrial exports to the United States
15 but against U.S. agriculture and against our technology,
16 as well as exports containing steel, how it would
17 endanger global economic recovery, the price that would
18 be paid for a quota bill.

19 I can tell you this as someone who goes out on behalf
20 of our government and representing Ambassador Barshefsky
21 and my President, negotiating with countries during
22 periods of great duress, particularly in Asia, now in
23 Latin America, and also in Europe, not always
24 successfully, Senator Rockefeller, but making the point
25 that if they deviate from the rules of the road here,

1 that the global economy will suffer and we will go into
2 another tailspin. We have been pleading with these
3 countries to stick to the rules of the road and not
4 violate their WTO commitments.

5 Again, in summary, we feel strongly about the quota
6 legislation. We do feel there is room, Senator Gramm,
7 for improvement. We are studying what has been put
8 before us in this bill, which I just saw for the first
9 time last night, to see if it accomplishes a result that
10 would be constructive in terms of changes in the 201
11 statute.

12 The Chairman. The time is growing late.

13 Senator Gramm. Mr. Chairman, let me say, I offer my
14 amendment to strike Section II. Let me also say, I so
15 strongly disagree with my friend from West Virginia that
16 I will vote for the Rockefeller bill and work for its
17 passage if that is what is necessary to defeat Title II
18 of this bill.

19 I think Title II of this bill is forever. The
20 Rockefeller provision is a temporary measure. It is
21 aimed at steel. It is destructive, it is bad policy.
22 But this is much worse policy and much more dangerous
23 policy.

24 The Chairman. Thirty seconds.

25 Senator Rockefeller. That is all it will take. May

1 I ask the Senator from Texas if he will vote for the same
2 quota bill on the floor of the U.S. Senate?

3 Senator Gramm. I said, if it is necessary to kill
4 this Title II and it were the only vehicle to kill it, I
5 would vote for it, yes.

6 Senator Rockefeller. You told me yesterday you
7 would not.

8 Senator Gramm. I think it is already dead.

9 Senator Rockefeller. I have the floor. I am going
10 to vote for the Senator's amendment. There is no way
11 that I can vote against my own quota bill. But his
12 underlying argument and all the rest of it, of course, I
13 disagree with.

14 The Chairman. We will have a vote.

15 Senator Gramm. I would like a roll call vote.

16 The Chairman. The Clerk will call the roll.

17 The Clerk. Mr. Chafee?

18 Senator Chafee. Aye.

19 The Clerk. Mr. Grassley?

20 Senator Grassley. No.

21 The Clerk. Mr. Hatch?

22 Senator Hatch. No.

23 The Clerk. Mr. Murkowski?

24 Senator Murkowski. Aye.

25 The Clerk. Mr. Nickles?

1 The Chairman. Aye, by proxy.
2 The Clerk. Mr. Gramm, of Texas?
3 Senator Gramm. Aye.
4 The Clerk. Mr. Lott?
5 The Chairman. No, by proxy.
6 The Clerk. Mr. Jeffords?
7 The Chairman. No, by proxy.
8 The Clerk. Mr. Mack?
9 The Chairman. Yes, by proxy.
10 The Clerk. Mr. Thompson?
11 (No response)
12 The Clerk. Mr. Moynihan?
13 Senator Moynihan. No.
14 The Clerk. Mr. Baucus?
15 Senator Moynihan. No, by proxy.
16 The Clerk. Mr. Rockefeller?
17 Senator Rockefeller. Aye.
18 The Clerk. Mr. Breaux?
19 Senator Moynihan. No, by proxy.
20 The Clerk. Mr. Conrad?
21 Senator Moynihan. No, by proxy.
22 The Clerk. Mr. Graham, of Florida?
23 Senator Graham. No.
24 The Clerk. Mr. Bryan?
25 Senator Moynihan. No, by proxy.

1 The Clerk. Mr. Kerrey?

2 Senator Moynihan. No, by proxy.

3 The Clerk. Mr. Robb?

4 Senator Robb. No.

5 The Clerk. Mr. Chairman?

6 The Chairman. No.

7 The Clerk. The votes are 6 nays-----

8 Senator Rockefeller. Mr. Chairman, the vote is not
9 complete. I had not understood. The original Gramm bill
10 was to take out 201 and substitute the quota bill, but
11 that became a rhetorical discussion. It simply takes out
12 201, so I change my vote to no.

13 The Clerk. The votes are 5 yeas, 12 nays.

14 The Chairman. Repeat that, please.

15 The Clerk. The votes are 5 yeas and, I am sorry, 14
16 nays.

17 The Chairman. The amendment is not agreed to.

18 Now I move to report favorably the Chairman's mark of
19 the Steel Trade Enforcement Act, as amended, to the
20 Senate, with the understanding that committee staff be
21 permitted to make any technical corrections that may be
22 necessary.

23 The Clerk will call the roll.

24 The Clerk. Mr. Chafee?

25 Senator Chafee. Aye.

1 The Clerk. Mr. Grassley?
2 Senator Grassley. Aye.
3 The Clerk. Mr. Hatch?
4 Senator Hatch. Aye.
5 The Clerk. Mr. Murkowski?
6 Senator Murkowski. Aye.
7 The Clerk. Mr. Nickles?
8 The Chairman. Aye, by proxy.
9 The Clerk. Mr. Gramm, of Texas?
10 Senator Gramm. No.
11 The Clerk. Mr. Lott?
12 The Chairman. Yes, by proxy.
13 The Clerk. Mr. Jeffords?
14 The Chairman. Yes, by proxy.
15 The Clerk. Mr. Mack?
16 The Chairman. No, by proxy.
17 The Clerk. Mr. Thompson?
18 (No response)
19 The Clerk. Mr. Moynihan?
20 Senator Moynihan. Aye.
21 The Clerk. Mr. Baucus?
22 Senator Baucus. Aye.
23 The Clerk. Mr. Rockefeller?
24 Senator Rockefeller. No.
25 The Clerk. Mr. Breaux?

1 Senator Moynihan. Aye, by proxy.

2 The Clerk. Mr. Conrad?

3 Senator Moynihan. Aye, by proxy.

4 The Clerk. Mr. Graham, of Florida?

5 Senator Graham. Aye.

6 The Clerk. Mr. Bryan?

7 Senator Moynihan. Aye, by proxy.

8 The Clerk. Mr. Kerrey?

9 Senator Moynihan. Aye, by proxy.

10 The Clerk. Mr. Robb?

11 Senator Robb. Aye.

12 The Clerk. Mr. Chairman?

13 The Chairman. Aye.

14 Will the Court Reporter please come forward?

15 [Pause]

16 The Clerk. It is 16 yeas, 4 nays.

17 The Chairman. The bill is reported favorably.

18 Thank you very much.

19 Senator Moynihan. Mr. Chairman, before we break, I
20 offer you congratulations. But I would point out
21 something, an event in our economic history. This
22 morning, the Bureau of Labor Statistics reported that the
23 rate of inflation last quarter was zero. As we
24 understand it, and many believe, the CPI overstates
25 inflation. We may have entered a deflationary period, a

1 thought we have not had to deal with since 1934. So we
2 have some people around here with experience.

3 The Chairman. With that admonition, I will declare
4 the committee in recess.

5 [Whereupon, at 12:16 p.m., the meeting was
6 concluded.]

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from the

6-17-99

Summers
hearing

54

1 beneficiaries.

2 Senator Grassley. Mr. Chairman, could I make a
3 comment to you, please?

4 The Chairman. Well, we are running late. Senator
5 Nickles has a special request he wants to make.

6 Senator Nickles. Mr. Chairman, one, I want to
7 compliment Senator Kerrey for the comments he just made.

8 Yesterday in the committee mark-up on the trade bill, my
9 vote was cast by proxy incorrectly. I ask unanimously
10 consent to change the vote in opposition.

11 The Chairman. Without objection, it is so ordered.

12 Senator Nickles. Thank you, Mr. Chairman.

13 The Chairman. The next, is Senator Mack.

14 Senator Mack. Thank you, Mr. Chairman. I am
15 somewhat tempted to yield my time to Senator Kerrey.

16 [Laughter]. But I am not going to do that, which is
17 probably not surprising.

18 I want to welcome Mr. Summers to the hearing. I look
19 forward to voting in support of your nomination.

20 Mr. Summers. Thank you.

21 Senator Mack. I want to say, further, that while
22 you and I will disagree a number of times on policy
23 positions, that I do look forward to working with you. I
24 think that you have earned the respect of this committee
25 and, for that matter, the markets as well. So, again, I

Revised 6/15/99

**UNITED STATES SENATE
COMMITTEE ON FINANCE**

**Wednesday, June 16, 1999 -- 9:30 a.m.
SD-215 Dirksen Senate Office Building**

**OPEN EXECUTIVE SESSION
AGENDA**

- I. H.R. 1833, The Customs Authorization Act of 1999
- II. Chairman's Mark of The Steel Trade Enforcement Act.

The Chairman will rule out of order nongermane items (offered as a single amendment or as part of a larger amendment). Additionally, all amendments must be revenue neutral

COMMITTEE ON FINANCE

**MODIFICATIONS TO CHAIRMAN'S PROPOSAL
ON H.R. 1833, THE CUSTOMS AUTHORIZATION ACT OF 1999**

JUNE 16, 1999

1) Addition of new title III

Add a new title III that would provide the Customs Service with civil enforcement authority to combat intentional tampering of country-of-origin markings on goods once they are in the U.S. stream of commerce.

2) Amendment to Title II, Section 205

In addition to assessing the detection and monitoring needs of the southern border, the Commissioner would be required to assess the detection and monitoring needs of the northern border.

3) Amendment to Title II, Section 102(d)(2)

Strike section 102(d)(2) and insert in lieu thereof the following:

"(2) Transfer of Funds -- Notwithstanding any other provision of this section, the Commissioner may reallocate an amount not to exceed 25 percent of -

(A) any amounts specified in subsection (a)(1), (a)(2) and (a)(3), for equipment specified in any subparagraphs contained therein."

Further, Section 103 would be amended by inserting the following:

"(11) Transfer of Personnel -- Notwithstanding any other provision of this section, the Commissioner may reallocate an amount not to exceed 25 percent of -

(A) those personnel identified in Section 103 subsection (1) through (10)."

Staff Document

Chairman's Proposal

H.R. 1833 -- Customs Authorization Act of 1999

**Prepared by the Staff of the
Senate Committee on Finance
June 16, 1999**

I. Background

A. Finance Committee Oversight

Chairman Roth initiated a comprehensive review of the Customs Service's operations at the outset of the 106th Congress. The purpose of the review was to assess Customs' implementation of the Customs Modernization and Informed Compliance Act of 1993 ("Mod Act") and to ensure that Customs is adequately prepared to address the challenges it confronts in a world of rapidly expanding global commerce. The review delved into concerns raised with respect to the Customs Service's commercial operations, performance of its enforcement responsibilities, and the needed improvements in the agency's internal management, particularly with respect to internal affairs.

Based on testimony before the Committee and information provided by the Customs Service in response to the Committee's request, it is clear that there are significant delays in the processing of passengers and cargo at the nation's ports of entry. The testimony underscored that the cause of those delays lay in the dramatic expansion of cross-border traffic in goods, services and passengers, while Customs faced a real decline in resources. The increase in commerce has placed significant pressure on Customs ability to process incoming and outgoing traffic, while ensuring the aggressive enforcement of the nation's customs laws.

Testimony from both government and private sector witnesses pointed to improvements in technology, particularly the implementation of a new information management system, the Automated Commercial Environment ("ACE"), as one part of the response to the challenges facing Customs. The testimony made clear, however, that increases in personnel would also be needed to address the delays facing legitimate traffic at the port.

B. Previous Authorization and Appropriations

The statutory basis for authorization of appropriations for Customs is section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)). The 1978 Act, as amended by section 8102 of the Omnibus Budget and Reconciliation Act of 1986, requires separate authorizations and appropriations for salaries and expenses related to commercial and non-commercial (i.e., enforcement) operations. For purposes of comparison, the figures listed below are total figures for salaries and expenses.

The most recent authorization of appropriations for Customs took place in 1990 as part of the Customs and Trade Act of 1990 (Pub. L. No. 101-382). That Act provided \$1,247,884,000 for total salaries and expenses and \$150,199,000 for air and marine interdiction and other operations and maintenance in fiscal year 1992. That authorization expired in 1992 and Customs has been without a new authorization of appropriations since that time.

Total appropriations for Customs for fiscal year 1999 equaled \$2.1 billion. Of that amount, Congress appropriated \$1,642,565,000, and added emergency supplemental appropriations of \$106,300,000 for salaries and expenses, for a total of \$1,748,865,000 for salaries and expenses for the fiscal year. Congress also appropriated \$276,388,000 for operations and maintenance.

The amounts appropriated exceeded the President's fiscal year 1999 budget request, which recommended \$1,638,065,000 for salaries and expenses and an additional \$98,499,000 for marine and air interdiction and other operations and maintenance. The President's requested fiscal year 2000

appropriations for salaries and expenses of \$1.6 billion is a 23 percent decrease from actual FY 1999 appropriations. In fiscal year 2000, despite the significant increase in Customs' workload, the President requested total appropriations of \$1 billion less than the amount requested in the budget prepared by Customs.

C. H.R. 1833 Authorization of Appropriations

H.R. 1833, as passed by the House, would authorize a total of \$1,154,359,000 for fiscal year 2000 for Customs' commercial operations, including a specific authorization of \$150,000,000 for the development of the Automated Commercial Environment. For Customs' enforcement activities, H.R. 1833 would authorize a total of \$999,563,000 for fiscal year 2000, including a specific increase of \$227,100,000 or 18.4 percent for drug interdiction resources over the President's FY 2000 request. H.R. 1833 would, in addition, authorize \$109,413,000 for air and marine interdiction, for a total FY 2000 appropriation of \$2,263,335,000.

For fiscal year 2001, H.R. 1833 would authorize \$1,194,534,000 for commercial operations, including an additional \$150,000,000 for ACE funding; \$996,464,000 for enforcement activities; and \$113,789,000 for air and marine interdiction and other operations and maintenance. That represents a total FY 2001 authorization of \$2,304,787,000.

II. Chairman's Proposal

The Chairman's proposal builds on the approach adopted in the 105th Congress by the Finance Committee in the Committee's amendment to H.R. 3809, the Drug Free Borders Act of 1998 and several bills introduced in the 106th Congress -- S. 689, introduced by Senators Grassley and Graham, S. 685, introduced by Senator Gramm, and S. 219, introduced by the Ranking Member, Senator Moynihan. The core of the proposal authorizes appropriations to improve Customs' performance of its basic missions, the facilitation of trade and the enforcement of the customs laws. It also fulfills Congress' commitment to ensure the Customs Service's ability to better serve the trade community, as well as enhance its enforcement performance, by authorizing the appropriations needed to implement ACE.

The proposal would also make certain changes designed to institutionalize the positive internal changes under way within the agency. Those include the creation of a renewable fixed-term of five years for the Commissioner of Customs and the requirement that candidates for the position demonstrate significant management expertise. The proposal would, in addition, implement a new program of internal controls designed to improve Customs' ability to assess its own performance in such basic areas as the implementation of the Customs Modernization Act.

As reflected in the section-by-section analysis below, the Chairman's proposal is divided into two titles. The first would authorize the appropriation of additional resources for trade facilitation needed to implement fully Congress' intent under the Customs Modernization Act, as well as authorize additional amounts for aggressive enforcement of U.S. customs laws. Title II would, by contrast, make certain changes with respect to the internal management of the agency that are designed to foster continuity in the leadership of the organization and improved internal compliance and performance assessment.

With respect to the authorization of appropriations, the Chairman's proposal applies to fiscal years 2000 and 2001, as does H.R. 1833. The Chairman's proposal would authorize approximately \$97 million more for commercial operations in fiscal year 2000 and \$352 million more in fiscal year 2001 than would the House-passed bill. Virtually all of that increase relates to higher amounts authorized for ACE funding, consistent with the capital budget for the project estimated by Customs.

For non-commercial operations, the Chairman's proposal would add approximately \$30 million to the H.R. 1833 fiscal year 2000 authorization and \$83 million less in fiscal year 2001. The Chairman's proposal would authorize \$119 million and \$63 million more for air and marine operations than H.R. 1833 in fiscal years 2000 and 2001 respectively.

Section-by-Section Analysis of the Chairman's Proposal

I. Title I – Authorization of Appropriations for Enhanced Inspection, Trade Facilitation and Drug Interdiction, Automation and Management Improvement

A. Section 101 -- Authorizations for Enforcement, Commercial Operations and Air and Marine Interdiction

Present Law

As noted above, the most recent authorization of appropriations for Customs approved by Congress was in 1990. The final year of that authorization, for fiscal year 1992, provided \$1,247,884,000 for salaries and expenses and \$150,199,000 for operations and maintenance. Fiscal year 1998 appropriations totaled \$1,522,165,000 for salaries and expenses and \$92,758,000 for operations and maintenance.

Explanation of Provision

Section 101 of the Chairman's proposal would authorize appropriations for enforcement, commercial operations, and air and marine interdiction in fiscal years 2000 and 2001. It would also require Customs to provide out-year budget projections for fiscal years beyond 2001.

Specifically, section 101(a) would amend section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 to authorize \$1,029,608,384 and \$1,111,450,668 for drug enforcement and other non-commercial operations in fiscal years 2000 and 2001 respectively.

Section 101(b) (1) would authorize \$1,251,794,435 in fiscal year 2000 and \$1,348,676,435 in fiscal year 2001 for Customs Service commercial operations.

Section 101(c) would, in addition, authorize appropriations of \$229,001,000 and \$176,967,000 for air and marine interdiction and other operations and maintenance in fiscal years 2000 and 2001 respectively.

Section 101(d) would require Customs to submit to the Finance and Ways and Means Committees, as well as both Appropriations Committees, the budget request submitted by Customs to the Secretary of the Treasury for each fiscal year.

Section 101(e)(1) would establish within the U.S. Customs Service an Automation Modernization Working Capital Fund, under which amounts appropriated for funding of ACE and other automation projects would remain available to Customs until expended and contracts could be authorized for multiple years. Section 101(e)(2) would authorize the appropriation of such additional amounts needed to implement fully the Customs Service's Automated Commercial Environment, as well as provide amounts for the continuation of ACS as required prior to full implementation of ACE, up to a maximum of \$242,000,000 for fiscal year 2000 and \$336,000,000 for fiscal year 2001, which is consistent with Customs' estimated capital budget for full implementation of ACE in each of those fiscal years.

Section 101(e)(3) would require the Commissioner to report, no later than March 31 and September 30 of each year, to the Senate Finance Committee, the House Ways and Means Committee, and the Senate and House Appropriations Committees on the agency's progress in implementing the ACE program. The report would provide the explicit decision criteria used to identify, evaluate, and prioritize all automated systems modernization investments planned for fiscal years 2000-2004; provide a schedule for

successfully mitigating deficiencies identified by the General Accounting Office (GAO) and the development and implementation of all automated system modernization projects; provide a plan to expand the utilization of external, not Customs, expertise for systems development and integration; and contain schedule timeliness and resource allocations for delivery of new automation. The provision would also direct GAO to audit Customs reports and progress in implementing ACE and other automation projects.

Thus, section 101 would provide a total authorization of \$2,281,402,819 for salaries and expenses in fiscal year 2000, which includes the estimated fiscal year 2000 capital budget for ACE funding, and \$229,001,000 for air and marine interdiction and other operations and maintenance. For fiscal year 2001, section 101 would authorize a total of \$2,460,127,103 in salaries and expenses, also including the estimated fiscal year capital budget for ACE funding, and \$176,967,000 for air and marine interdiction and other operations and maintenance.

Reasons for Change

Section 101 recognizes the efforts that Customs has made, in response to the Customs Modernization and Informed Compliance Act of 1993, to reform its own operations and to manage itself on an increasingly efficient basis. It also recognizes the significant new challenges Customs faces due to expanding statutory responsibilities, significant increases in the level of international trade, both inbound and outbound, passing through U.S. ports, and the rising level of sophistication of smugglers of drugs and other contraband that will require a greater investment in resources on Customs part to combat.

In particular, section 101 underscores the importance of the full implementation of the ACE program to support Customs' commercial operations and its enforcement activities. Section 101 would establish a working capital account into which funds could be appropriated for the implementation of the ACE program, but would allow for greater certainty in Customs' financial planning for the project and provide the authority to let contracts that might extend beyond the current fiscal year in which the funds were appropriated.

B. Section 102 – Designation of Funds for Narcotics Detection Equipment for the Northern and Southern Borders and Florida and Gulf Seaports and for Improvements in Internal Management

Present Law

No provision.

Explanation of Provision

Out of the total funds authorized by section 101, section 102(a) would earmark specific amounts for certain express purposes. Those purposes would include specific amounts for commercial operations and enforcement activities at northern and southern land border entry points, as well as at Florida and Gulf Coast ports of entry. They would also include additional amounts to improve Customs' management performance, particularly the agency's internal management information systems, as well as additional amounts to address the problem of preventing the circumvention of certain rules on textile imports. The designated amounts would be distributed as follows:

(1) United States-Mexico Border

- \$6 million for 8 vehicle and container inspection systems;
- \$11 million for 5 mobile truck x-rays;
- \$12 million for upgrade of 8 fixed-site truck x-rays;
- \$7.2 million for 8 pallet x-rays;
- \$1 million for 200 portable contraband detectors;
- \$.6 million for 50 contraband detection kits;
- \$.5 million for 25 ultrasonic container inspections units;
- \$2.45 million for 7 automated targeting systems;
- \$.36 million for 30 rapid tire deflator systems;
- \$.48 million for 20 portable Treasury Enforcement Communications Systems terminals;
- \$1 million for 20 remote watch surveillance cameras;
- \$1.254 million for 57 weigh-in-motion sensors;
- \$.180 for 36 AM band traffic information radio stations;
- \$1.04 million for 260 inbound vehicle counters;

- \$.95 million for 38 counter surveillance spotter cameras;
- \$.39 million for 60 inbound commercial truck transponders;
- \$1.6 million for 40 narcotics vapor and particle detectors;
- \$.4 million for license plate reader automatic targeting software; and
- \$1 million for a demonstration site for a high-energy relocatable rail car inspection system at a shared Defense Department testing facility for a two-month period.

(2) United States-Canada Border

- \$3 million for 4 vehicle and container inspections systems;
- \$8.8 million for 4 mobile truck x-rays;
- \$3.6 million for 4 pallet x-rays;
- \$.25 million for 50 portable contraband detectors;
- \$.3 million for 25 contraband detection kits;
- \$.24 million for 10 portable Treasury Enforcement Communications Systems;
- \$.4 million for 10 narcotics vapor and particle detectors;
- \$.6 million for 30 fibre optic scopes;
- \$.25 million for 50 portable contraband detectors (busters);
- \$3 million 10 portable X-ray vans with particle detectors;
- \$.04 million for 8 AM loop radio systems;
- \$.4 million for 100 vehicle counters;
- \$1.2 million for 12 examination tool trucks;
- \$2.4 million for 3 dedicated commuter lanes;
- \$1.05 million for 3 automated targeting systems;
- \$.572 million for 26 weigh-in motion sensors; and
- \$.48 million for 20 portable Treasury Enforcement Communication Systems.

(3) Florida and Gulf Coast Seaports

- \$4.5 million for 6 vehicle and container inspection systems;
- \$11.8 for 5 mobile truck x-rays;
- \$7.2 million for 8 pallet x-rays;
- \$.25 million for 50 portable contraband detectors; and

- \$.3 million for 25 contraband detection kits.

(4) Internal Management

- \$2.5 million for an Internal Affairs automated systems;
- \$.7 million for enhanced Internal Affairs file management systems;
- \$2.7 million for enhanced financial asset management systems;
- \$6.1 million for an enhanced human resources information system to improve personnel management;
- \$2.7 million for new data management systems for improved performance analysis, internal and external reporting, and data analysis; and
- \$1.7 million for automation of the collection of key export data as part of the implementation of the Automated Export System and to improve Customs' ability to enforce the U.S. export control laws.

Section 102(b) would authorize \$3,364,435 for textile transshipment enforcement for both fiscal years 2000 and 2001.

Section 102(c) would authorize \$9.9235 million for maintenance and support of the equipment identified above and for training of personnel to maintain and support such equipment.

Section 102(d) would allow the Commissioner flexibility in spending the amounts specified in section 102(a) if he were to find that technologically superior equipment designed for the same purpose was available. In addition, section 102(d) would allow some room for reallocation (not to exceed 25 percent) among the various enumerated items within any geographic area identified above as needed.

Reasons for Change

The provision reinforces the focus of the authorization on the specific needs of the Customs Service to meet the rising challenges of both increasing

levels of legitimate commerce and the need for stronger vigilance and enforcement. The provision also reinforces the Customs Service's ability to ensure proper data management in order to effectively and efficiently manage the agency, particularly its internal affairs function.

C. Section 103 – Peak Hours and Investigative Resource Enhancement

Present Law

No provision.

Explanation of Provision

Section 103 would authorize a net increase in personnel to enhance Customs' ability to address peak loads at various points of entry and to increase investigative personnel dedicated to the interdiction of drugs and other contraband as follows:

1. Net increase of 535 inspectors, 120 special agents, and 10 intelligence analysts for the United States-Mexico border and 375 inspectors for the United States-Canada border in order to open all primary lanes on such border during peak hours;
2. Net increase of 285 inspectors and canine enforcement officers on the United States-Mexico border and a net increase of 125 inspectors on the United States-Canada border to be distributed at large cargo facilities in order to reduce commercial waiting times;
3. Net increase of 40 special agents and 10 intelligence analysts to facilitate the activities of the additional inspectors;
4. Net increase of 40 inspectors at sea ports in southeast Florida to process and screen cargo;

5. Net increase of 70 special agents, 23 intelligence agents, 9 support staff, and the necessary equipment to enhance investigation efforts targeted at internal conspiracies at the Nation's sea ports;
6. Net increase of 360 special agents, 30 intelligence analysts, and additional resources for use in ports that have jurisdiction over major metropolitan drug or narcotics distribution and/or transportation centers;
7. Net increase of 2 special agents to staff a Customs attache office in Nassau, Bahamas;
8. Net increase of 62 special agents and 8 intelligence analysts for maritime smuggling investigations and interdiction operations; and
9. Net increase of 50 positions and additional resources to staff adequately the Office of Internal Affairs to enhance investigation of anti-corruption efforts.

Section 103 would also authorize the additional funds necessary to cover the cost incurred as a result of the increase in personnel hired pursuant to that provision of the authorizing legislation.

Reasons for Change

The provision recognizes the need to provide for a stronger commitment to enforcement, intelligence gathering, and the maintenance of the high standards of integrity within the Customs Service that are fundamental to a stronger enforcement effort, as well as to the improvement of commercial operations.

D. Section 104 – Agent Rotations; Elimination of Backlog of Background Investigations

Present Law

No provision.

Explanation of Provision

Section 104 would, out of the amounts authorized under section 101, provide additional funding of up to \$16,000,000 for fiscal year 2000 (of which \$10,000,000 would remain available until expended), and up to \$6,000,000 for fiscal year 2001 to clear the backlog of existing background investigations as part of an effort to accelerate the recruitment and training of new inspectors and agents. The provision would also provide specific authorization for the interoffice transfer of up to 100 special agents, including the cost of relocation, between the Office of Investigations and the Office of Internal Affairs and Compliance at the direction of the Commissioner in an effort to reinforce the capabilities of the internal affairs efforts at Customs.

Reasons for Change

The amounts authorized in section 101 for additional inspection and enforcement personnel will require Customs to begin recruitment to fill the ranks of both inspectors and special agents. Section 104 would authorize certain amounts out of the totals authorized in section 101 to assist in accelerating the hiring of new inspectors and agents by clearing the existing backlog of background investigations.

Section 104 acknowledges the testimony provided to the Committee by the General Accounting Office and others, as well as the report on Customs' internal affairs operations completed by the Treasury Department's Office of Professional Responsibility, concerning the relative weakness of the internal affairs effort at Customs. The provision would reinforce the steps taken by current management to improve the performance of a function that is critical to the integrity and the public's perception of the agency. It would authorize

additional amounts out of the totals set forth in section 101 to provide for the regular rotation of agents into the Office of Internal Affairs from the field.

E. Section 105 – Air and Marine Operation and Maintenance Funding

Present Law

No provision.

Explanation of Provision

Section 105 would earmark additional amounts out of the totals set out in section 101 to improve the Customs Service's air and marine interdiction efforts as follows:

1. For fiscal year 2000, authorize \$96.5 million for restoration or replacement of aging aircraft, \$15 million for increased air interdiction and investigative support activities, and \$19.013 million for marine vessel replacement and related equipment; and
2. For fiscal year 2001, \$36.5 million for aircraft restoration and replacement, \$15 million for increased air interdiction and investigative support activities, and \$24.024 million for marine vessel replacement and related equipment.

Reasons for Change

The provision would provide a specific focus to Customs improvement of its marine and air interdiction efforts, as well as ensure the investment of any appropriated funds in new aircraft that will enhance Customs interdiction capabilities.

F. Section 106 – Compliance with Performance Plan Requirements

Present Law

No provision.

Explanation of the Provision

Section 106(a) would require Customs to evaluate the benefits of the additional activities enumerated in sections 102-105 as a part of developing its annual performance plan in order to allow both Customs and the Committee to assess the value added to Customs efforts by these authorizations.

Section 106(b) would authorize the Customs Service to contract with outside experts to assess, on a periodic basis, the agency's performance measures for enforcement activity that it is required to establish under the Government Performance and Results Act of 1993. Section 106(b) would also direct the Commissioner of Customs to make those assessments available to the Senate Finance and House Ways and Means Committees upon their completion.

Reasons for Change

The provision is designed to ensure that Customs provides Congress with regular explanations as to how it intends to further the goals of the agency and those amounts set out as part of this authorizing legislation.

H. Section 107 – Transfer of Aerostats

Present Law

No provision.

Explanation of Provision

Section 107 would direct the President to submit a budget request for the Customs Service, beginning with fiscal year 2001, that would allow the

Customs Service to assume responsibility for the operation of certain tethered aerostat radar systems ("TARS") currently operated by the United States Air Force, which the Air Force intends to replace with new systems for its own use. Section 108 would also authorize the appropriations necessary to the operation and maintenance of such systems.

Reasons for Change

Customs previously operated its own TARS system covering the source zone of illegal contraband and the transport zones leading to the United States as part of its overall enforcement efforts, particularly with respect to drug interdiction. The Department of Defense, specifically the Air Force, assumed responsibility for the operation of Customs' TARS system. The Air Force now intends to replace the current TARS system with new systems designed and operated for its particular defense-related needs. That prospect would leave Customs without the ability it previously had to use the TARS system for radar coverage of the source zone of contraband and the transport zones leading to the United States.

I. Section 108 – Report on Intelligence Requirements

Present Law

No provision.

Explanation of Provision

Section 108 would direct the Commissioner of Customs, within one year, to report to the Senate Finance and House Ways and Means Committees regarding the intelligence and information requirements of the agency necessary to improve its capability to enforce the U.S. customs laws and reinforce the agency's ability to interdict illegal imports of narcotics.

Reasons for Change

Testimony before the Finance Committee in the course of its Customs oversight hearings underscored the importance of improved intelligence to the

agency's enforcement efforts. Improved intelligence and information gathering capabilities, including increased cooperation with other U.S. agencies and Customs' counterparts abroad, would enhance the Customs Service's ability to enforce the customs laws of the United States, including, for example, the interdiction of drugs, violations of U.S. intellectual property laws, attempts to circumvent the trade laws of the United States, and the investigation of instances of forced and indentured child labor.

J. Section 109 – Authorization of Appropriations for Program to Prevent Child Pornography and Sexual Exploitation of Children

Present Law

No provision.

Explanation of Provision

Section 109(a) would authorize the appropriation of \$10,000,000 for fiscal year 2000 to carry out the program to prevent child pornography and sexual exploitation of children established by the Child Cyber-Smuggling Center of the Customs Service. Section 109(b) would direct the Customs Service to provide 3.75 percent of the amount authorized to the National Center for Missing and Exploited Children for the operation of a child pornography cyber tipline established by the Center to increase public awareness of the tipline.

Reasons for Change

As reflected in the testimony of the Customs Commissioner before the Finance Committee, child pornography distributed over the Internet has become a growing public problem. The Customs Service has established a Child Cyber-Smuggling Center to interdict the illegal distribution of such illegal contraband within the United States. The funds authorized would reinforce Customs' ability to address the growing problem.

II. Title II – Customs Management Performance

Title II makes certain changes in the existing management structure of the Customs Service designed to enhance the continuity of leadership at the agency and to improve the current system of internal controls. The changes made to improve the internal controls of the agency focus on improving accountability not only for the enforcement of the letter of the law in cases investigated by the Office of Internal Affairs, but also the agency's performance of its basic missions and its implementation of directives from Congress, particularly the Customs Modernization Act.

A. Section 201 – Term and Salary of the Commissioner of Customs

Present Law

Under current law, the Customs Commissioner serves under appointment by the President without a fixed term. The Commissioner is currently paid at Executive Schedule -- Level IV or a rate of \$118,400 per year.

Explanation of Provision

Section 201(a) would provide a fixed, renewable term of five years for the Commissioner of Customs beginning with the incumbent's current tenure. It would add to the criteria used for appointing the Commissioner the need to show demonstrated management ability.

Section 201(b) would authorize an increase in the Customs Commissioner's pay to that of Executive Schedule -- Level III or a rate of \$125,900 per year. Section 201(b) would apply to fiscal year 2000 and those that follow.

Reasons for Change

The changes embodied in section 201 are designed to foster continuity within the leadership of the agency and to reinforce the management changes already under way within Customs under its current leadership. The provision

would also ensure that the Commissioner of Customs is paid at a rate commensurate with other U.S. government officials of similar rank and responsibility.

B. Section 202 – Internal Compliance

Present Law

No provision.

Explanation of Provision

Section 202(a) would direct the Commissioner of Customs to establish, within the Office of Internal Affairs, a program of internal compliance designed to enhance Customs' performance of its basic missions, as well as ensure compliance with all applicable laws with a particular focus on the agency's implementation of the Custom Modernization Act. Section 202(a) would require, as part of the compliance program, that the Commissioner institute a program of ongoing self-assessment and conduct a review of Customs' performance in all core functions on an annual basis. Under section 202(a), the self-assessment program and the annual performance review would be designed to identify where performance deficiencies exist in Customs' commercial operations, enforcement efforts, and internal management and propose specific corrective measures to address such concerns. Section 202(a) would also require the Commissioner to report on his or her annual assessment to the Senate Finance and House Ways and Means Committees.

Section 202(b) would direct the Commissioner, as part of the development of an improved system of internal compliance, to initiate a review of current best practices in internal compliance programs among government agencies and private sector organizations, and report to the Senate Finance and House Ways and Means Committees on the results of that review and the implementation of the program mandated by section 202(a). Section 202 (c) would require the periodic review and audit of the Customs Service's internal compliance program by the Treasury Inspector General, and require the Inspector General to report his findings, as part of the review required by

the Chief Financial Officers Act of 1990, to the Senate Finance and House Ways and Means Committees.

Reasons for Change

The ultimate objective of section 202 is to develop a basis on which the Customs Service's authorizing committees, the Senate Finance and House Ways and Means Committees, can provide continuing effective oversight of the agency's operations. Of particular concern are the still unfulfilled objectives of the Customs Modernization Act, including the publication of all implementing regulations and the development of the automated systems necessary to interface electronically with the trade community's daily business operations.

The proposal would deepen the management changes begun by the Government Performance and Results Act of 1993, which requires all government agencies to establish performance measures and assess their performance on an annual basis. The internal compliance model, with its higher emphasis on encouraging compliance through training, self-assessment, the identification of specific management objectives for the succeeding review period, and the measurement of agency performance against those benchmarks, draws on best practices currently available within government and the private sector to encourage management by objective throughout the agency, and thereby contribute to the improvement in Customs' performance of its mission responsibilities.

C. Section 203 -- Report on Personnel Flexibility

Present Law

No provision.

Explanation of Provision

Section 203 would require the Commissioner of Customs to provide to the Senate Committees on Finance and Governmental Affairs and the House Committees on Ways and Means and Government Reform and Oversight a

report, within six months of the date of enactment of this Act, detailing his recommendations for modifications in existing personnel rules that would permit more effective management of Customs' resources, as well as improve the agency's ability to perform its basic missions of trade facilitation and enforcement. Section 203 would require the Commissioner to include in the report his justification for seeking such changes, including a statement of reasons why the flexibility provided in the current civil service system governing Customs' personnel management is insufficient to meet the agency's personnel needs.

Reasons for Change

In testimony before the Finance Committee, the current Commissioner of Customs identified certain areas in which he wanted to see greater flexibility in current personnel rules to reinforce other management changes under way within the agency. Among the Commissioner's suggestions were changes to rules regarding pre-employment screening, the duration of probationary periods for newly hired employees, and similar modifications to current civil service rules that would make Customs' hiring practices consistent with other law enforcement agencies.

D. Section 204 – Report on Implementation of Personnel Allocation Model

Present Law

No provision.

Explanation of Provision

Section 204 would require the Commissioner, within six months, to report to the Senate Finance and House Ways and Means Committees on the implementation of the personnel allocation model currently under development within the agency.

Reasons for Change

Testimony before the Finance Committee, as well as previous reports by the General Accounting Office, identified the need to strengthen Customs' ability to assess its own personnel needs and to ensure the proper allocation of the personnel within Customs to ensure that the agency is fully capable of meeting its mission goals. The Customs Service's current management has responded to those concerns by working closely with outside service providers to develop an improved system of personnel management. What remains is the implementation of that improved approach. Section 204 would require the Commissioner to report to the Senate Finance and House Ways and Means Committee within six months on the progress toward implementation of that improved system.

E. Section 205 -- Report on Detection and Monitoring Requirements Along the Southern Tier

Present Law

No provision.

Explanation of Provision

Section 205 would require the Commissioner of Customs to conduct a review of its counterdrug detection and monitoring requirements for coverage of the arrival zone along the southern tier and to provide a report to the Senate Finance and House Ways and Means Committees no later than six months days after the date of enactment of this Act. Section 205 would direct the Commissioner to assess (1) the performance of existing detection and monitoring assets, (2) any gaps in current radar coverage, and (3) any limitations imposed on Customs' enforcement activities due to reliance on Defense Department detection and monitoring assets.

Reasons for Change

The Customs Service must currently depend on Defense Department detection and monitoring assets for radar coverage of the arrival zone along both the northern and southern tiers of the United States. Section 205 would provide an assessment of Customs' needs and the ability of the Defense Department's assets, as currently configured, to meet those needs.

Calendar No. _____

106TH CONGRESS
1ST SESSION

H.R. 1833

[Report No. 106-____]

IN THE SENATE OF THE UNITED STATES

MAY 18, 1999

Read twice and referred to the Committee on Finance

JUNE ____ (legislative day, _____), 1999

Reported by _____, with an amendment and an amendment to
the title

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To authorize appropriations for fiscal years 2000 and 2001 for the United States Customs Service for drug interdiction and other operations, for the Office of the United States Trade Representative, for the United States International Trade Commission, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the "Trade Agency Author-
3 izations, Drug Free Borders, and Prevention of On-Line
4 Child Pornography Act of 1999".

5 **SEC. 2. TABLE OF CONTENTS.**

6 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—UNITED STATES CUSTOMS SERVICE

Subtitle A—Drug Enforcement and Other Noncommercial and Commercial Operations

Sec. 101. Authorization of appropriations for noncommercial operations, commercial operations, and air and marine interdiction.

Sec. 102. Illicit narcotics detection equipment for the United States-Mexico border, United States-Canada border, and Florida and the Gulf Coast seaports.

Sec. 103. Peak hours and investigative resource enhancement for the United States-Mexico and United States-Canada borders.

Sec. 104. Compliance with performance plan requirements.

Subtitle B—Child Cyber-Smuggling Center of the Customs Service

Sec. 111. Authorization of appropriations for program to prevent child pornography/child sexual exploitation.

Subtitle C—Personnel Provisions

CHAPTER 1—OVERTIME AND PREMIUM PAY OF OFFICERS OF THE CUSTOMS SERVICE

Sec. 121. Correction relating to fiscal year cap.

Sec. 122. Correction relating to overtime pay.

Sec. 123. Correction relating to premium pay.

Sec. 124. Use of savings from payment of overtime and premium pay for additional overtime enforcement activities of the Customs Service.

Sec. 125. Effective date.

CHAPTER 2—MISCELLANEOUS PROVISIONS

Sec. 131. Study and report relating to personnel practices of the Customs Service.

TITLE II—OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Sec. 201. Authorization of appropriations.

TITLE III—UNITED STATES INTERNATIONAL TRADE COMMISSION
Sec. 301. Authorization of appropriations.

1 **TITLE I—UNITED STATES**
2 **CUSTOMS SERVICE**
3 **Subtitle A—Drug Enforcement and**
4 **Other Noncommercial and Com-**
5 **mercial Operations**

6 **SEC. 101. AUTHORIZATION OF APPROPRIATIONS FOR NON-**
7 **COMMERCIAL OPERATIONS, COMMERCIAL**
8 **OPERATIONS, AND AIR AND MARINE INTER-**
9 **DICTION.**

10 (a) **NONCOMMERCIAL OPERATIONS.**—Section
11 301(b)(1) of the Customs Procedural Reform and Sim-
12 plification Act of 1978 (19 U.S.C. 2075(b)(1)) is amend-
13 ed—

14 (1) in subparagraph (A) to read as follows:

15 “(A) \$1,231,359,000 for fiscal year
16 2000.”; and

17 (2) in subparagraph (B) to read as follows:

18 “(B) \$1,237,534,428 for fiscal year
19 2001.”.

20 (b) **COMMERCIAL OPERATIONS.**—Section
21 301(b)(2)(A) of the Customs Procedural Reform and Sim-
22 plification Act of 1978 (19 U.S.C. 2075(b)(2)(A)) is
23 amended—

24 (1) in clause (i) to read as follows:

1 “(i) ~~\$922,562,000~~ for fiscal year 2000.”;

2 and

3 (2) in clause (ii) to read as follows:

4 “(ii) ~~\$952,464,000~~ for fiscal year 2001.”.

5 (e) ~~AIR AND MARINE INTERDICTION.~~—Section
6 301(b)(2) of the Customs Procedural Reform and Sim-
7 plification Act of 1978 (19 U.S.C. 2075(b)(3)) is amend-
8 ed—

9 (1) in subparagraph (A) to read as follows:

10 “(A) ~~\$100,412,000~~ for fiscal year 2000.”;

11 and

12 (2) in subparagraph (B) to read as follows:

13 “(B) ~~\$112,780,000~~ for fiscal year 2001.”.

14 (d) ~~SUBMISSION OF OUT-YEAR BUDGET PROJEC-~~
15 ~~TIONS.~~—Section 301(a) of the Customs Procedural Re-
16 form and Simplification Act of 1978 (19 U.S.C. 2075(a))
17 is amended by adding at the end the following:

18 “(3) By no later than the date on which the President
19 submits to the Congress the budget of the United States
20 Government for a fiscal year, the Commissioner of Cus-
21 toms shall submit to the Committee on Ways and Means
22 of the House of Representatives and the Committee on
23 Finance of the Senate the projected amount of funds for
24 the succeeding fiscal year that will be necessary for the

1 operations of the Customs Service as provided for in sub-
2 section (b).”

3 **SEC. 102. ILLICIT NARCOTICS DETECTION EQUIPMENT FOR**
4 **THE UNITED STATES-MEXICO BORDER, UNI-**
5 **ED STATES-CANADA BORDER, AND FLORIDA**
6 **AND THE GULF COAST SEAPORTS.**

7 (a) FISCAL YEAR 2000.—Of the amounts made avail-
8 able for fiscal year 2000 under section 301(b)(1)(A) of
9 the Customs Procedural Reform and Simplification Act of
10 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section
11 101(a) of this Act, \$90,244,000 shall be available until
12 expended for acquisition and other expenses associated
13 with implementation and deployment of illicit narcotics de-
14 tection equipment along the United States-Mexico border,
15 the United States-Canada border, and Florida and the
16 Gulf Coast seaports, as follows:

17 (1) UNITED STATES-MEXICO BORDER.—For the
18 United States-Mexico border, the following:

19 (A) \$6,000,000 for 8 Vehicle and Con-
20 tainer Inspection Systems (VACIS).

21 (B) \$11,200,000 for 5 mobile truck x-rays
22 with transmission and backscatter imaging.

23 (C) \$13,000,000 for the upgrade of 8
24 fixed-site truck x-rays from the present energy

1 level of 450,000 electron volts to 1,000,000
2 electron volts (1-MeV).

3 (D) \$7,200,000 for 8 1-MeV pallet x-rays.

4 (E) \$1,000,000 for 200 portable contra-
5 band detectors (busters) to be distributed
6 among ports where the current allocations are
7 inadequate.

8 (F) \$600,000 for 50 contraband detection
9 kits to be distributed among all southwest bor-
10 der ports based on traffic volume.

11 (G) \$500,000 for 25 ultrasonic container
12 inspection units to be distributed among all
13 ports receiving liquid-filled cargo and to ports
14 with a hazardous material inspection facility.

15 (H) \$2,450,000 for 7 automated targeting
16 systems.

17 (I) \$360,000 for 30 rapid tire deflator sys-
18 tems to be distributed to those ports where port
19 runners are a threat.

20 (J) \$480,000 for 20 portable Treasury En-
21 forcement Communications Systems (TECS)
22 terminals to be moved among ports as needed.

23 (K) \$1,000,000 for 20 remote watch sur-
24 veillance camera systems at ports where there
25 are suspicious activities at loading docks, vehi-

1 ele queues, secondary inspection lanes, or areas
2 where visual surveillance or observation is ob-
3 scured.

4 (L) \$1,254,000 for 57 weigh-in-motion
5 sensors to be distributed among the ports with
6 the greatest volume of outbound traffic.

7 (M) \$180,000 for 36 AM traffic informa-
8 tion radio stations, with 1 station to be located
9 at each border crossing.

10 (N) \$1,040,000 for 260 inbound vehicle
11 counters to be installed at every inbound vehicle
12 lane.

13 (O) \$950,000 for 38 spotter camera sys-
14 tems to counter the surveillance of customs in-
15 spection activities by persons outside the bound-
16 aries of ports where such surveillance activities
17 are occurring.

18 (P) \$390,000 for 60 inbound commercial
19 truck transponders to be distributed to all ports
20 of entry.

21 (Q) \$1,600,000 for 40 narcotics vapor and
22 particle detectors to be distributed to each bor-
23 der crossing.

1 (R) \$400,000 for license plate reader auto-
2 matic targeting software to be installed at each
3 port to target inbound vehicles.

4 (2) ~~UNITED STATES-CANADA BORDER.~~ For the
5 United States-Canada border, the following:

6 (A) \$3,000,000 for 4 Vehicle and Con-
7 tainer Inspection Systems (VACIS).

8 (B) \$8,800,000 for 4 mobile truck x-rays
9 with transmission and backscatter imaging.

10 (C) \$3,600,000 for 4 1-MeV pallet x-rays.

11 (D) \$250,000 for 50 portable contraband
12 detectors (busters) to be distributed among
13 ports where the current allocations are inad-
14 equate.

15 (E) \$200,000 for 25 contraband detection
16 kits to be distributed among ports based on
17 traffic volume.

18 (F) \$240,000 for 10 portable Treasury
19 Enforcement Communications Systems (TECS)
20 terminals to be moved among ports as needed.

21 (G) \$400,000 for 10 narcotics vapor and
22 particle detectors to be distributed to each bor-
23 der crossing based on traffic volume.

1 (2) FLORIDA AND GULF COAST SEAPORTS.—

2 For Florida and the Gulf Coast seaports, the follow-
3 ing:

4 (A) \$4,500,000 for 6 Vehicle and Con-
5 tainer Inspection Systems (VACIS).

6 (B) \$11,800,000 for 5 mobile truck x-rays
7 with transmission and backscatter imaging.

8 (C) \$7,200,000 for 8 1-MeV pallet x-rays.

9 (D) \$250,000 for 50 portable contraband
10 detectors (busters) to be distributed among
11 ports where the current allocations are inad-
12 equate.

13 (E) \$300,000 for 25 contraband detection
14 kits to be distributed among ports based on
15 traffic volume.

16 (b) FISCAL YEAR 2001.—Of the amounts made avail-
17 able for fiscal year 2001 under section 301(b)(1)(B) of
18 the Customs Procedural Reform and Simplification Act of
19 1978 (19 U.S.C. 2075(b)(1)(B)), as amended by section
20 101(a) of this Act, \$8,924,500 shall be available until ex-
21 pended for the maintenance and support of the equipment
22 and training of personnel to maintain and support the
23 equipment described in subsection (a).

24 (c) ACQUISITION OF TECHNOLOGICALLY SUPERIOR
25 EQUIPMENT; TRANSFER OF FUNDS.—

1 (1) IN GENERAL.—The Commissioner of Customs
2 may use amounts made available for fiscal year
3 2000 under section 301(b)(1)(A) of the Customs
4 Procedural Reform and Simplification Act of 1978
5 (19 U.S.C. 2075(b)(1)(A)), as amended by section
6 101(a) of this Act, for the acquisition of equipment
7 other than the equipment described in subsection (a)
8 if such other equipment—

9 (A)(i) is technologically superior to the
10 equipment described in subsection (a); and

11 (ii) will achieve at least the same results at
12 a cost that is the same or less than the equip-
13 ment described in subsection (a); or

14 (B) can be obtained at a lower cost than
15 the equipment described in subsection (a).

16 (2) TRANSFER OF FUNDS.—Notwithstanding
17 any other provision of this section, the Commissioner
18 of Customs may reallocate an amount not to exceed
19 10 percent of—

20 (A) the amount specified in any of sub-
21 paragraphs (A) through (R) of subsection
22 (a)(1) for equipment specified in any other of
23 such subparagraphs (A) through (R);

24 (B) the amount specified in any of sub-
25 paragraphs (A) through (G) of subsection

1 (a)(2) for equipment specified in any other of
2 such subparagraphs (A) through (G); and
3 (C) the amount specified in any of sub-
4 paragraphs (A) through (E) of subsection
5 (a)(2) for equipment specified in any other of
6 such subparagraphs (A) through (E).

7 **SEC. 103. PEAK HOURS AND INVESTIGATIVE RESOURCE EN-**
8 **HANCEMENT FOR THE UNITED STATES-MEX-**
9 **ICO AND UNITED STATES-CANADA BORDERS.**

10 Of the amounts made available for fiscal years 2000
11 and 2001 under subparagraphs (A) and (B) of section
12 301(b)(1) of the Customs Procedural Reform and Sim-
13 plication Act of 1978 (19 U.S.C. 2075(b)(1)(A) and
14 (B)), as amended by section 101(a) of this Act,
15 \$127,644,584 for fiscal year 2000 and \$184,110,928 for
16 fiscal year 2001 shall be available for the following:

17 (1) A net increase of 525 inspectors, 120 spe-
18 cial agents, and 10 intelligence analysts for the
19 United States-Mexico border and 375 inspectors for
20 the United States-Canada border, in order to open
21 all primary lanes on such borders during peak hours
22 and enhance investigative resources.

23 (2) A net increase of 285 inspectors and canine
24 enforcement officers to be distributed at large cargo
25 facilities as needed to process and screen cargo (in-

1 eluding rail cargo) and reduce commercial waiting
2 times on the United States-Mexico border.

3 (3) A net increase of 40 inspectors at sea ports
4 in southeast Florida to process and screen cargo.

5 (4) A net increase of 300 special agents, 30 in-
6 telligence analysts, and additional resources to be
7 distributed among offices that have jurisdiction over
8 major metropolitan drug or narcotics distribution
9 and transportation centers for intensification of ef-
10 forts against drug smuggling and money-laundering
11 organizations.

12 (5) A net increase of 50 positions and addi-
13 tional resources to the Office of Internal Affairs to
14 enhance investigative resources for anticorruption ef-
15 forts.

16 (6) The costs incurred as a result of the in-
17 crease in personnel hired pursuant to this section.

18 **SEC. 104. COMPLIANCE WITH PERFORMANCE PLAN RE-**
19 **QUIREMENTS.**

20 As part of the annual performance plan for each of
21 the fiscal years 2000 and 2001 covering each program ac-
22 tivity set forth in the budget of the United States Customs
23 Service, as required under section 1115 of title 31, United
24 States Code, the Commissioner of the Customs Service
25 shall establish performance goals, performance indicators,

1 and comply with all other requirements contained in para-
2 graphs (1) through (6) of subsection (a) of such section
3 with respect to each of the activities to be carried out pur-
4 suant to sections 111 and 112 of this Act.

5 **Subtitle B—Child Cyber-Smuggling**
6 **Center of the Customs Service**

7 **SEC. 111. AUTHORIZATION OF APPROPRIATIONS FOR PRO-**
8 **GRAM TO PREVENT CHILD PORNOGRAPHY/**
9 **CHILD SEXUAL EXPLOITATION.**

10 (a) **AUTHORIZATION OF APPROPRIATIONS.**—There is
11 authorized to be appropriated to the Customs Service
12 \$10,000,000 for fiscal year 2000 to carry out the program
13 to prevent child pornography/child sexual exploitation es-
14 tablished by the Child Cyber-Smuggling Center of the
15 Customs Service.

16 (b) **USE OF AMOUNTS FOR CHILD PORNOGRAPHY**
17 **CYBER TIPLINE.**—Of the amount appropriated under sub-
18 section (a), the Customs Service shall provide 3.75 percent
19 of such amount to the National Center for Missing and
20 Exploited Children for the operation of the child pornog-
21 raphy cyber tipline of the Center and for increased public
22 awareness of the tipline.

1 **Subtitle C—Personnel Provisions**
2 **CHAPTER 1—OVERTIME AND PREMIUM**
3 **PAY OF OFFICERS OF THE CUSTOMS**
4 **SERVICE**

5 **SEC. 121. CORRECTION RELATING TO FISCAL YEAR CAP.**

6 Section 5(e)(1) of the Act of February 13, 1911 (19
7 U.S.C. 267(e)(1)) is amended to read as follows:

8 “(1) **FISCAL YEAR CAP.**—The aggregate of
9 overtime pay under subsection (a) (including com-
10 muting compensation under subsection (a)(2)(B))
11 that a customs officer may be paid in any fiscal year
12 may not exceed \$30,000, except that—

13 “(A) the Commissioner of Customs or his
14 or her designee may waive this limitation in in-
15 dividual cases in order to prevent excessive
16 costs or to meet emergency requirements of the
17 Customs Service; and

18 “(B) upon certification by the Commis-
19 sioner of Customs to the Chairmen of the Com-
20 mittee on Ways and Means of the House of
21 Representatives and the Committee on Finance
22 of the Senate that the Customs Service has in
23 operation a system that provides accurate and
24 reliable data on a daily basis on overtime and
25 premium pay that is being paid to customs offi-

1 cers, the Commissioner is authorized to pay any
2 customs officer for one work assignment that
3 would result in the overtime pay of that officer
4 exceeding the \$20,000 limitation imposed by
5 this paragraph, in addition to any overtime pay
6 that may be received pursuant to a waiver
7 under subparagraph (A).”

8 **SEC. 122. CORRECTION RELATING TO OVERTIME PAY.**

9 Section 5(a)(1) of the Act of February 13, 1911 (19
10 U.S.C. 267(a)(1)), is amended by inserting after the first
11 sentence the following new sentences: “Overtime pay pro-
12 vided under this subsection shall not be paid to any cus-
13 toms officer unless such officer actually performed work
14 during the time corresponding to such overtime pay. The
15 preceding sentence shall not apply with respect to the pay-
16 ment of an award or settlement to a customs officer who
17 was unable to perform overtime work as a result of a per-
18 sonnel action in violation of section 5596 of title 5, United
19 States Code, section 6(d) of the Fair Labor Standards Act
20 of 1938, or title VII of the Civil Rights Act of 1964.”

21 **SEC. 123. CORRECTION RELATING TO PREMIUM PAY.**

22 (a) **IN GENERAL.**—Section 5(b)(4) of the Act of Feb-
23 ruary 13, 1911 (19 U.S.C. 267(b)(4)), is amended by add-
24 ing after the first sentence the following new sentences:
25 “Premium pay provided under this subsection shall not

1 be paid to any customs officer unless such officer actually
2 performed work during the time corresponding to such
3 premium pay. The preceding sentence shall not apply with
4 respect to the payment of an award or settlement to a
5 customs officer who was unable to perform work during
6 the time described in the preceding sentence as a result
7 of a personnel action in violation of section 5596 of title
8 5, United States Code, section 6(d) of the Fair Labor
9 Standards Act of 1938, or title VII of the Civil Rights
10 Act of 1964."

11 (b) CORRECTIONS RELATING TO NIGHT WORK DIP-
12 FERENTIAL PAY.—Section 5(b)(1) of such Act (19 U.S.C.
13 267(b)(1)) is amended to read as follows:

14 "(1) NIGHT WORK DIFFERENTIAL.—

15 "(A) 6 P.M. TO MIDNIGHT.—If any hours
16 of regularly scheduled work of a customs officer
17 occur during the hours of 6 p.m. and 12 a.m.,
18 the officer is entitled to pay for such hours of
19 work (except for work to which paragraph (2)
20 or (3) applies) at the officer's hourly rate of
21 basic pay plus premium pay amounting to 15
22 percent of that basic rate.

23 "(B) MIDNIGHT TO 6 A.M.—If any hours
24 of regularly scheduled work of a customs officer
25 occur during the hours of 12 a.m. and 6 a.m.,

1 the officer is entitled to pay for such hours of
2 work (except for work to which paragraph (2)
3 or (3) applies) at the officer's hourly rate of
4 basic pay plus premium pay amounting to 20
5 percent of that basic rate.

6 “(C) MIDNIGHT TO 8 A.M.—If the regula-
7 larly scheduled work of a customs officer is 12
8 a.m. to 8:00 a.m., the officer is entitled to pay
9 for work during such period (except for work to
10 which paragraph (2) or (3) applies) at the offi-
11 cer's hourly rate of basic pay plus premium pay
12 amounting to 20 percent of that basic rate.”

13 **SEC. 124. USE OF SAVINGS FROM PAYMENT OF OVERTIME**
14 **AND PREMIUM PAY FOR ADDITIONAL OVER-**
15 **TIME ENFORCEMENT ACTIVITIES OF THE**
16 **CUSTOMS SERVICE.**

17 Section 5 of the Act of February 13, 1911 (19 U.S.C.
18 267), is amended—

19 (1) by redesignating subsection (e) as sub-
20 section (f); and

21 (2) by inserting after subsection (d) the follow-
22 ing:

23 “(e) USE OF SAVINGS FROM PAYMENT OF OVERTIME
24 AND PREMIUM PAY FOR ADDITIONAL OVERTIME EN-
25 FORCEMENT ACTIVITIES.—

1 ~~“(1) USE OF AMOUNTS.~~—For fiscal year 1999
2 and each subsequent fiscal year, the Secretary of the
3 Treasury—

4 ~~“(A) shall determine under paragraph (2)~~
5 the amount of savings from the payment of
6 overtime and premium pay to customs officers;
7 and

8 ~~“(B) shall use an amount from the Cus-~~
9 toms User Fee Account equal to such amount
10 determined under paragraph (2) for additional
11 overtime enforcement activities of the Customs
12 Service.

13 ~~“(2) DETERMINATION OF SAVINGS AMOUNT.~~—
14 For each fiscal year, the Secretary shall calculate an
15 amount equal to the difference between—

16 ~~“(A) the estimated cost for overtime and~~
17 premium pay that would have been incurred
18 during that fiscal year if this section, as in ef-
19 fect on the day before the date of the enact-
20 ment of sections 122 and 123 of the Trade
21 Agency Authorization, Drug Free Borders, and
22 On-Line Child Pornography Prevention Act of
23 1999, had governed such costs; and

24 ~~“(B) the actual cost for overtime and pre-~~
25 mium pay that is incurred during that fiscal

1 year under this section, as amended by sections
2 122 and 123 of the Trade Agency Authoriza-
3 tion, Drug Free Borders, and On-Line Child
4 Pornography Prevention Act of 1999."

5 **SEC. 125. EFFECTIVE DATE.**

6 This chapter, and the amendments made by this
7 chapter, shall apply with respect to pay periods beginning
8 on or after 15 days after the date of the enactment of
9 this Act.

10 **CHAPTER 2—MISCELLANEOUS**
11 **PROVISIONS**

12 **SEC. 131. STUDY AND REPORT RELATING TO PERSONNEL**
13 **PRACTICES OF THE CUSTOMS SERVICE.**

14 (a) **STUDY.**—The Commissioner of Customs shall
15 conduct a study of current personnel practices of thecus-
16 toms Service, including an overview of performance stand-
17 ards and the effect and impact of the collective bargaining
18 process on drug interdiction efforts of the Customs Service
19 and a comparison of duty rotation policies of the Customs
20 Service and other Federal agencies that employ similarly-
21 situated personnel.

22 (b) **REPORT.**—Not later than 120 days after the date
23 of the enactment of this Act, the Commissioner ofcus-
24 toms shall submit to the Committee on Ways and Means
25 of the House of Representatives and the Committee on

1 Finance of the Senate a report containing the results of
2 the study conducted under subsection (a).

3 **TITLE II—OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE**

6 **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

7 (a) **IN GENERAL.**—Section 141(g)(1) of the Trade
8 Act of 1974 (19 U.S.C. 2171(g)(1)) is amended—

9 (1) in subparagraph (A)—

10 (A) in the matter preceding clause (i), by
11 striking “not to exceed the following” and in-
12 serting “as follows”;

13 (B) in clause (i) to read as follows:

14 “(i) \$26,501,000 for fiscal year 2000.”; and

15 (C) in clause (ii) to read as follows:

16 “(ii) \$26,501,000 for fiscal year 2001.”; and

17 (2) in subparagraph (B)—

18 (A) in clause (i), by adding “and” at the
19 end;

20 (B) by striking clause (ii); and

21 (C) by redesignating clause (iii) as clause
22 (ii).

23 (b) **SUBMISSION OF OUT-YEAR BUDGET PROJEC-**
24 **TIONS.**—Section 141(g) of the Trade Act of 1974 (19

1 U.S.C. 2171(g)) is amended by adding at the end the fol-
2 lowing:

3 “(2) By no later than the date on which the President
4 submits to the Congress the budget of the United States
5 Government for a fiscal year, the United States Trade
6 Representative shall submit to the Committee on Ways
7 and Means of the House of Representatives and the Com-
8 mittee on Finance of the Senate the projected amount of
9 funds for the succeeding fiscal year that will be necessary
10 for the Office to carry out its functions.”

11 **TITLE III—UNITED STATES**
12 **INTERNATIONAL TRADE COM-**
13 **MISSION**

14 **SEC. 301. AUTHORIZATION OF APPROPRIATIONS.**

15 (a) **IN GENERAL.**—Section 330(e)(2)(A) of the Tariff
16 Act of 1930 (19 U.S.C. 1330(e)(2)) is amended—

17 (1) in clause (i) to read as follows:

18 “(i) \$47,200,000 for fiscal year 2000.”; and

19 (2) in clause (ii) to read as follows:

20 “(ii) \$49,750,000 for fiscal year 2001.”.

21 (b) **SUBMISSION OF OUT-YEAR BUDGET PROJEC-**
22 **TIONS.**—Section 330(e) of the Tariff Act of 1930 (19
23 U.S.C. 1330(e)(2)) is amended by adding at the end the
24 following:

1 “(4) By no later than the date on which the President
2 submits to the Congress the budget of the United States
3 Government for a fiscal year, the Commission shall submit
4 to the Committee on Ways and Means of the House of
5 Representatives and the Committee on Finance of the
6 Senate the projected amount of funds for the succeeding
7 fiscal year that will be necessary for the Commission to
8 carry out its functions.”

9 **SECTION 1. SHORT TITLE.**

10 *This Act may be cited as the “Customs Authorization*
11 *Act of 1999.”*

12 **SEC. 2. TABLE OF CONTENTS.**

13 *The table of contents for this Act is as follows:*

14 **[TO BE SUPPLIED]**

15 **TITLE 1—AUTHORIZATION OF**
16 **APPROPRIATIONS FOR UNIT-**
17 **ED STATES CUSTOMS SERV-**
18 **ICE FOR ENHANCED INSPEC-**
19 **TION, TRADE FACILITATION,**
20 **AND DRUG INTERDICTION**

21 **SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

22 **(a) DRUG ENFORCEMENT AND OTHER NONCOMMER-**
23 **CIAL OPERATIONS.**—*Subparagraphs (A) and (B) of section*
24 *301(b)(1) of the Customs Procedural Reform and Sim-*

1 *plification Act of 1978 (19 U.S.C. 2075(b)(1)(A) and (B))*
2 *are amended to read as follows:*

3 “(A) \$1,029,608,384 for fiscal year 2000.

4 “(B) \$1,111,450,668 for fiscal year 2001.”.

5 **(b) Commercial Operations.**—*Clauses (i) and (ii) of*
6 *section 301(b)(2)(A) of such Act (19 U.S.C. 2075(b)(2)(A)(i)*
7 *and (ii)) are amended to read as follows:*

8 “(i) \$1,251,794,435 for fiscal year
9 2000.

10 “(ii) \$1,348,676,435 for fiscal year
11 2001.”.

12 **(c) Air and Marine Interdiction.**—*Subparagraphs (A)*
13 *and (B) of section 301(b)(3) of such Act (19 U.S.C.*
14 *2075(b)(3)(A) and (B)) are amended to read as follows:*

15 “(A) \$229,001,000 for fiscal year 2000.

16 “(B) \$176,967,000 for fiscal year 2001.”.

17 **(d) Submission of Budget Projections.**—*Section 301(a)*
18 *of such Act (19 U.S.C. 2075(a)) is amended by adding at*
19 *the end the following:*

20 “(3) *By no later than the date on which the*
21 *President submits to Congress the budget of the Unit-*
22 *ed States Government for a fiscal year, the Commis-*
23 *sioner of Customs shall submit to the Committee on*
24 *Appropriations and the Committee on Ways and*
25 *Means of the House of Representatives and the Com-*

1 *mittee on Appropriations and the Committee on Fi-*
2 *nance of the Senate the budget request submitted to*
3 *the Secretary of the Treasury estimating the amount*
4 *of funds for that fiscal year that will be necessary for*
5 *the operations of the Customs Service as provided for*
6 *in subsection (b).”*

7 **[(e) AUTHORIZATION OF APPROPRIATIONS FOR AUTO-**
8 **MATED COMMERCIAL ENVIRONMENT AND OTHER INFORMA-**
9 **TION SYSTEMS.—**

10 (1) **ESTABLISHMENT OF AUTOMATION MOD-**
11 **ERNIZATION WORKING CAPITAL FUND.—***There is es-*
12 *tablished within the United States Customs Service*
13 *an Automation Modernization Working Capital Fund*
14 *(in this section, referred to as the “Fund”. The Fund*
15 *shall consist of the amounts authorized to be appro-*
16 *priated under paragraph (2) and shall be used to im-*
17 *plement the Automated Commercial Environment*
18 *computer system, to maintain the Automated Com-*
19 *mmercial System until the Automated Commercial En-*
20 *vironment computer system is fully implemented, and*
21 *for related modernization activities.*

22 (2) **AUTHORIZATION OF APPROPRIATIONS.—**
23 *There are authorized to be appropriated for the Fund*
24 *\$242,000,000 for fiscal year 2000 and \$336,000,000*
25 *for fiscal year 2001. The amounts authorized to be*

1 (iii) provide a plan for expanding the
2 utilization of [sources outside of the Cus-
3 toms Service] for the development and inte-
4 gration of automated systems; and

5 (iv) contain timely schedules and re-
6 source allocations for implementing the
7 Automated Commercial Environment com-
8 puter system.

9 (B) AUDIT.—Not later than 30 days after
10 the report described in subparagraph (A) is re-
11 ceived, the Comptroller General of the United
12 States shall conduct an audit of the report and
13 shall provide the results of the audits to the Com-
14 missioner of Customs, to the Committee on Ap-
15 propriations and the Committee on Ways and
16 Means of the House of Representatives, and to
17 the Committee on Appropriations and the Com-
18 mittee on Finance of the Senate.

1 **SEC. 102. CARGO INSPECTION AND NARCOTICS DETECTION**
2 **EQUIPMENT FOR THE UNITED STATES-MEX-**
3 **ICO BORDER, UNITED STATES-CANADA BOR-**
4 **DER, AND FLORIDA AND GULF COAST SEA-**
5 **PORTS; INTERNAL MANAGEMENT IMPROVE-**
6 **MENTS.**

7 (a) *FISCAL YEAR 2000.*—Of the amounts made avail-
8 able for fiscal year 2000 under section 301(b)(1)(A) of the
9 *Customs Procedural Reform and Simplification Act of 1978*
10 *(19 U.S.C. 2075(b)(1)(A))*, as amended by section 101(a)
11 of this Act, \$116,436,000 shall be available until expended
12 for acquisition and other expenses associated with imple-
13 mentation and deployment of narcotics detection equipment
14 along the United States-Mexico border, the United States-
15 Canada border, and Florida and the Gulf Coast seaports,
16 and for internal management improvements as follows:

17 (1) *UNITED STATES-MEXICO BORDER.*—For the
18 *United States-Mexico border*, the following amounts
19 shall be available:

20 (A) \$6,000,000 for 8 Vehicle and Container
21 *Inspection Systems (VACIS).*

22 (B) \$11,000,000 for 5 mobile truck x-rays
23 *with transmission and backscatter imaging.*

24 (C) \$12,000,000 for the upgrade of 8 fixed-
25 *site truck x-rays from the present energy level of*

1 450,000 electron volts to 1,000,000 electron volts
2 (1-MeV).

3 (D) \$7,200,000 for 8 1-MeV pallet x-rays.

4 (E) \$1,000,000 for 200 portable contraband
5 detectors (busters) to be distributed among ports
6 where the current allocations are inadequate.

7 (F) \$600,000 for 50 contraband detection
8 kits to be distributed among all southwest border
9 ports based on traffic volume.

10 (G) \$500,000 for 25 ultrasonic container in-
11 spection units to be distributed among all ports
12 receiving liquid-filled cargo and to ports with a
13 hazardous material inspection facility.

14 (H) \$2,450,000 for 7 automated targeting
15 systems.

16 (I) \$360,000 for 30 rapid tire deflator sys-
17 tems to be distributed to those ports where port
18 runners are a threat.

19 (J) \$480,000 for 20 portable Treasury En-
20 forcement Communications Systems (TECS) ter-
21 minals to be moved among ports as needed.

22 (K) \$1,000,000 for 20 remote watch surveil-
23 lance camera systems at ports where there are
24 suspicious activities at loading docks, vehicle
25 queues, secondary inspection lanes, or areas

1 *where visual surveillance or observation is ob-*
2 *scured.*

3 (L) \$1,254,000 for 57 weigh-in-motion sen-
4 sors to be distributed among the ports with the
5 greatest volume of outbound traffic.

6 (M) \$180,000 for 36 AM traffic information
7 radio stations, with 1 station to be located at
8 each border crossing.

9 (N) \$1,040,000 for 260 inbound vehicle
10 counters to be installed at every inbound vehicle
11 lane.

12 (O) \$950,000 for 38 spotter camera systems
13 to counter the surveillance of customs inspection
14 activities by persons outside the boundaries of
15 ports where such surveillance activities are oc-
16 curring.

17 (P) \$390,000 for 60 inbound commercial
18 truck transponders to be distributed to all ports
19 of entry.

20 (Q) \$1,600,000 for 40 narcotics vapor and
21 particle detectors to be distributed to each border
22 crossing.

23 (R) \$400,000 for license plate reader auto-
24 matic targeting software to be installed at each
25 port to target inbound vehicles.

1 (S) \$1,000,000 for a demonstration site for
2 a high-energy relocatable rail car inspection sys-
3 tem with an x-ray source switchable from
4 2,000,000 electron volts (2-MeV) to 6,000,000
5 electron volts (6-MeV) at a shared Department of
6 Defense testing facility for a two-month testing
7 period.

8 (2) UNITED STATES-CANADA BORDER.—For the
9 United States-Canada border, the following amounts
10 shall be available:

11 (A) \$3,000,000 for 4 Vehicle and Container
12 Inspection Systems (VACIS).

13 (B) \$8,800,000 for 4 mobile truck x-rays
14 with transmission and backscatter imaging.

15 (C) \$3,600,000 for 4 1-MeV pallet x-rays.

16 (D) \$250,000 for 50 portable contraband de-
17 tectors (busters) to be distributed among ports
18 where the current allocations are inadequate.

19 (E) \$300,000 for 25 contraband detection
20 kits to be distributed among ports based on traf-
21 fic volume.

22 (F) \$240,000 for 10 portable Treasury En-
23 forcement Communications Systems (TECS) ter-
24 minals to be moved among ports as needed.

1 (G) \$400,000 for 10 narcotics vapor and
2 particle detectors to be distributed to each border
3 crossing based on traffic volume.

4 (H) \$600,000 for 30 fiber optic scopes.

5 (I) \$250,000 for 50 portable contraband de-
6 tectors (busters) to be distributed among ports
7 where the current allocations are inadequate.

8 (J) \$3,000,000 for 10 x-ray vans with par-
9 ticle detectors.

10 (K) \$40,000 for 8 AM loop radio systems.

11 (L) \$400,000 for 100 vehicle counters.

12 (M) \$1,200,000 for 12 examination tool
13 trucks.

14 (N) \$2,400,000 for 3 dedicated commuter
15 lanes.

16 (O) \$1,050,000 for 3 automated targeting
17 systems.

18 (P) \$572,000 for 26 weigh-in-motion sen-
19 sors.

20 (Q) \$480,000 for 20 portable Treasury En-
21 forcement Communication Systems (TECS).

22 (3) FLORIDA AND GULF COAST SEAPORTS.—For
23 Florida and the Gulf Coast seaports, the following
24 amounts shall be available:

1 (A) \$4,500,000 for 6 Vehicle and Container
2 Inspection Systems (VACIS).

3 (B) \$11,800,000 for 5 mobile truck x-rays
4 with transmission and backscatter imaging.

5 (C) \$7,200,000 for 8 1-MeV pallet x-rays.

6 (D) \$250,000 for 50 portable contraband de-
7 tectors (busters) to be distributed among ports
8 where the current allocations are inadequate.

9 (E) \$300,000 for 25 contraband detection
10 kits to be distributed among ports based on traf-
11 fic volume.

12 (4) *INTERNAL MANAGEMENT IMPROVEMENTS.*—

13 For internal management improvements, the follow-
14 ing amounts shall be available:

15 (A) \$2,500,000 for automated systems for
16 management of internal affairs functions.

17 (B) \$700,000 for enhanced internal affairs
18 file management systems.

19 (C) \$2,700,000 for enhanced financial asset
20 management systems.

21 (D) \$6,100,000 for enhanced human re-
22 sources information system to improve personnel
23 management.

1 (E) \$2,700,000 for new data management
2 systems for improved performance analysis, in-
3 ternal and external reporting, and data analysis.

4 (F) \$1,700,000 for automation of the collec-
5 tion of key export data as part of the implemen-
6 tation of the Automated Export system.

7 **[(b) TEXTILE TRANSSHIPMENT.—**Of the amounts
8 made available for fiscal years 2000 and 2001 under section
9 301(b)(1)(B) of the Customs Procedural Reform and Sim-
10 plification Act of 1978 (19 U.S.C. 2075(b)(1)(B)), as
11 amended by section 101(a) of this Act, \$3,364,435 shall be
12 for each fiscal year for textile transshipment enforcement.]

13 (c) **FISCAL YEAR 2001.—**Of the amounts made avail-
14 able for fiscal year 2001 under section 301(b)(1)(B) of the
15 Customs Procedural Reform and Simplification Act of 1978
16 (19 U.S.C. 2075(b)(1)(B)), as amended by section 101(a)
17 of this Act, \$9,923,500 shall be for the maintenance and
18 support of the equipment and training of personnel to
19 maintain and support the equipment described in sub-
20 section (a).

21 (d) **ACQUISITION OF TECHNOLOGICALLY SUPERIOR**
22 **EQUIPMENT; TRANSFER OF FUNDS.—**

23 (1) **IN GENERAL.—**The Commissioner of Customs
24 may use amounts made available for fiscal year 2000
25 under section 301(b)(1)(A) of the Customs Procedural

1 *Reform and Simplification Act of 1978 (19 U.S.C.*
2 *2075(b)(1)(A)), as amended by section 101(a) of this*
3 *Act, for the acquisition of equipment other than the*
4 *equipment described in subsection (a) if such other*
5 *equipment—*

6 *(A)(i) is technologically superior to the*
7 *equipment described in subsection (a); and*

8 *(ii) will achieve at least the same results at*
9 *a cost that is the same or less than the equip-*
10 *ment described in subsection (a); or*

11 *(B) is technologically equivalent to the*
12 *equipment described in subsection (a) and can be*
13 *obtained at a lower cost than the equipment de-*
14 *scribed in subsection (a).*

15 (2) *TRANSFER OF FUNDS.—Notwithstanding any*
16 *other provision of this section, the Commissioner of*
17 *Customs may reallocate an amount not to exceed 25*
18 *percent of—*

19 *(A) the amount specified in any of subpara-*
20 *graphs (A) through (R) of subsection (a)(1) for*
21 *equipment specified in any other of such sub-*
22 *paragraphs (A) through (R);*

23 *(B) the amount specified in any of subpara-*
24 *graphs (A) through (Q) of subsection (a)(2) for*

1 *equipment specified in any other of such sub-*
2 *paragraphs (A) through (Q); and*

3 *(C) the amount specified in any of subpara-*
4 *graphs (A) through (E) of subsection (a)(3) for*
5 *equipment specified in any other of such sub-*
6 *paragraphs (A) through (E).*

7 **SEC. 103. PEAK HOURS AND INVESTIGATIVE RESOURCE EN-**
8 **HANCEMENT FOR THE UNITED STATES-MEX-**
9 **ICO AND UNITED STATES-CANADA BORDERS,**
10 **FLORIDA AND GULF COAST SEAPORTS, AND**
11 **THE BAHAMAS.**

12 *Of the amounts made available for fiscal years 2000*
13 *and 2001 under subparagraphs (A) and (B) of section*
14 *301(b)(1) of the Customs Procedural Reform and Sim-*
15 *plification Act of 1978 (19 U.S.C. 2075(b)(1)(A) and (B)),*
16 *as amended by section 101(a) of this Act, \$181,864,800 for*
17 *fiscal year 2000 (including \$5,673,600 until expended for*
18 *investigative equipment) and \$230,983,340 for fiscal year*
19 *2001 shall be available for the following:*

20 *(1) A net increase of 535 inspectors, 120 special*
21 *agents, and 10 intelligence analysts for the United*
22 *States-Mexico border, and 375 inspectors for the Unit-*
23 *ed States-Canada border, in order to open all pri-*
24 *mary lanes on such borders during peak hours and*
25 *enhance investigative resources.*

1 (2) A net increase of 285 inspectors and canine
2 enforcement officers to be distributed at large cargo
3 facilities as needed to process and screen cargo (in-
4 cluding rail cargo) and reduce commercial waiting
5 times on the United States-Mexico border and a net
6 increase of 125 inspectors to be distributed at large
7 cargo facilities as needed to process and screen cargo
8 (including rail cargo) and reduce commercial waiting
9 times on the United States-Canada border.

10 (3) A net increase of 40 special agents and 10
11 intelligence analysts to facilitate the activities of the
12 additional inspectors authorized under paragraphs
13 (1) and (2).

14 (4) A net increase of 40 inspectors at sea ports
15 in southeast Florida to process and screen cargo.

16 (5) A net increase of 70 special agent positions,
17 23 intelligence analyst positions, 9 support staff posi-
18 tions, and the necessary equipment to enhance inves-
19 tigation efforts targeted at internal conspiracies at the
20 Nation's seaports.

21 (6) A net increase of 360 special agents, 30 intel-
22 ligence analysts, and additional resources to be dis-
23 tributed among offices that have jurisdiction over
24 major metropolitan drug or narcotics distribution
25 and transportation centers for intensification of ef-

1 (2) provide for the interoffice transfer of up to
2 100 special agents, including costs related to reloca-
3 tions, between the Office of Investigations and Office
4 of Internal Affairs, at the discretion of the Commis-
5 sioner of Customs.

6 **SEC. 105. AIR AND MARINE OPERATION AND MAINTENANCE**
7 **FUNDING.**

8 (a) *FISCAL YEAR 2000.*—Of the amounts made avail-
9 able for fiscal year 2000 under subparagraphs (A) and (B)
10 of section 301(b)(3) of the Customs Procedural Reform and
11 Simplification Act of 1978 (19 U.S.C. 2075(b)(3) (A) and
12 (B)), as amended by section 101(c) of this Act, \$130,513,000
13 shall be available until expended for the following:

14 (1) \$96,500,000 for Customs Service aircraft res-
15 toration and replacement initiative.

16 (2) \$15,000,000 for increased air interdiction
17 and investigative support activities.

18 (3) \$19,013,000 for marine vessel replacement
19 and related equipment.

20 (b) *FISCAL YEAR 2001.*—Of the amounts made
21 available for fiscal year 2001 under subparagraphs
22 (A) and (B) of section 301(b)(3) of the Customs Pro-
23 cedural Reform and Simplification Act of 1978 (19
24 U.S.C. 2075(b)(3) (A) and (B)) as amended by sec-

1 *tion 101(c) of this Act, \$75,524,000 shall be available*
2 *until expended for the following:*

3 (1) *\$36,500,000 for Customs Service aircraft res-*
4 *toration and replacement.*

5 (2) *\$15,000,000 for increased air interdiction*
6 *and investigative support activities.*

7 (3) *\$24,024,000 for marine vessel replacement*
8 *and related equipment.*

9 **SEC. 106. COMPLIANCE WITH PERFORMANCE PLAN RE-**
10 **QUIREMENTS.**

11 (a) *IN GENERAL.*—*As part of the annual performance*
12 *plan for each of fiscal years 2000 and 2001, as required*
13 *under section 1115 of title 31, United States Code, the Com-*
14 *missioner of Customs shall evaluate the benefits of the ac-*
15 *tivities authorized to be carried out pursuant to sections*
16 *102 through 105 of this Act.*

17 (b) *ENFORCEMENT PERFORMANCE MEASURES.*—*The*
18 *Commissioner of Customs is authorized to contract for the*
19 *review and assessment of enforcement performance goals*
20 *and indicators required by section 1115 of title 31, United*
21 *States Code, with experts in the field of law enforcement,*
22 *from academia, and from the research community. Any*
23 *contract for review or assessment conducted pursuant to*
24 *this subsection shall provide for recommendations of addi-*

1 *tional measures that would improve the enforcement strat-*
2 *egy and activities of the Customs Service.*

3 (c) *REPORT TO CONGRESS.—The Commissioner of*
4 *Customs shall submit any assessment, review, or report pro-*
5 *vided for under this section to the Committee on Finance*
6 *of the Senate and the Committee on Ways and Means of*
7 *the House of Representatives.*

8 **SEC. 107. TRANSFER OF AEROSTATS.**

9 (a) *IN GENERAL.—The President shall submit a plan*
10 *for funding the acquisition and operation by the Customs*
11 *Service of tethered aerostat radar systems currently oper-*
12 *ated by the Department of the Air Force and scheduled for*
13 *replacement in fiscal year 2001.*

14 (b) *AUTHORIZATION OF APPROPRIATIONS.—There is*
15 *hereby authorized to be appropriated such sums as may be*
16 *necessary to permit the operation and maintenance of the*
17 *aerostat radar systems, after the systems are transferred to*
18 *the Customs Service.*

19 **SEC. 108. REPORT ON INTELLIGENCE REQUIREMENTS.**

20 *The Commissioner of Customs shall, within one year*
21 *of the date of enactment of this Act, provide the Committee*
22 *on Finance of the Senate and the Committee on Ways and*
23 *Means of the House of Representatives with—*

1 (1) *an assessment of the intelligence and infor-*
2 *mation gathering capabilities and needs of the Cus-*
3 *toms Service;*

4 (2) *the impact of any limitations on the intel-*
5 *ligence and information gathering capabilities nec-*
6 *essary for adequate enforcement of the customs laws*
7 *of the United States; and*

8 (3) *a report detailing the Commissioner's rec-*
9 *ommendations for improving the agency's capabili-*
10 *ties.*

11 **SEC. 109. AUTHORIZATION OF APPROPRIATIONS FOR PRO-**
12 **GRAM TO PREVENT CHILD PORNOGRAPHY**
13 **AND SEXUAL EXPLOITATION OF CHILDREN.**

14 (a) **AUTHORIZATION OF APPROPRIATIONS.**—*There is*
15 *authorized to be appropriated to the Customs Service*
16 *\$10,000,000 for fiscal year 2000 to carry out the program*
17 *to prevent child pornography and sexual exploitation of*
18 *children established by the Child Cyber-Smuggling Center*
19 *of the Customs Service.*

20 (b) **USE OF AMOUNTS FOR CHILD PORNOGRAPHY**
21 **CYBER TIPLINE.**—*Of the amount appropriated under sub-*
22 *section (a), the Customs Service shall provide 3.75 percent*
23 *of such amount to the National Center for Missing and Ex-*
24 *ploited Children for the operation of the child pornography*

1 *cyber tipline of the Center and for increased public aware-*
2 *ness of the tipline.*

3 **TITLE II—CUSTOMS MANAGE-**
4 **MENT PERFORMANCE RE-**
5 **PORT**

6 **[SEC. 201. TERM AND SALARY OF THE COMMISSIONER OF**
7 **CUSTOMS.]**

8 (a) *TERM.*—*The second sentence of the first section of*
9 *the Act entitled “An Act to create a Bureau of Customs*
10 *and a Bureau of Prohibition in the Department of the*
11 *Treasury”, approved March 3, 1927 (19 U.S.C. 2071) is*
12 *amended—*

13 (1) *by inserting “for a term of 5 years” after*
14 *“Senate”;*

15 (2) *by striking “and” at the end of paragraph*
16 *(2);*

17 (3) *by striking the period at the end of para-*
18 *graph (3) and inserting “; and”; and*

19 (4) *by adding at the end the following new para-*
20 *graph:*

21 *“(4) have demonstrated ability in manage-*
22 *ment.”.]*

23 **[Add provisions similar to section 7803 of the IRC**
24 **relating to requirements for removal, vacancy, reappoint-**
25 **ment, and current occupant.]**

1 (b) SALARY.—

2 (1) IN GENERAL.—

3 (A) Section 5315 of title 5, United States
4 Code, is amended by striking the following item:

5 “Commissioner of Customs, Department of
6 Treasury.”

7 (B) Section 5314 of title 5, United States
8 Code, is amended by inserting at the end the fol-
9 lowing item:

10 “Commissioner of Customs, Department of
11 Treasury.”

12 (2) EFFECTIVE DATE.—The amendments made
13 by this [sub]section shall take effect on October 1,
14 1999.

15 **SEC. 202. INTERNAL COMPLIANCE.**

16 (a) ESTABLISHMENT OF INTERNAL COMPLIANCE PRO-
17 GRAM.—The Commissioner of Customs shall—

18 (1) establish, within the Office of Internal Af-
19 fairs, a program of internal compliance designed to
20 enhance the performance of the basic mission of the
21 Customs Service to ensure compliance with all appli-
22 cable laws and, in particular, with the implementa-
23 tion of title VI of the North American Free Trade
24 Agreement Implementation Act (commonly referred to
25 as the “Customs Modernization Act”);

1 (2) *institute a program of ongoing self-assess-*
2 *ment and conduct a review on an annual basis of the*
3 *performance of all core functions of the Customs Serv-*
4 *ice; and*

5 (3) *identify deficiencies in the current perform-*
6 *ance of the Customs Service with respect to commer-*
7 *cial operations, enforcement, and internal manage-*
8 *ment and propose specific corrective measures to ad-*
9 *dress such concerns; and*

10 (4) *within 6 months of the date of enactment of*
11 *this Act, and annually thereafter, provide the Com-*
12 *mittee on Finance of the Senate and the Committee*
13 *on Ways and Means of the House of Representatives*
14 *with a report on the programs and reviews conducted*
15 *under this subsection.*

16 (b) **EVALUATION AND REPORT ON BEST PRACTICES.—**
17 *The Commissioner of Customs shall, as part of the develop-*
18 *ment of an improved system of internal compliance, initiate*
19 *a review of current best practices in internal compliance*
20 *programs among government agencies and private sector*
21 *organizations and, not later than 18 months after the date*
22 *of enactment of this Act, report to the Committee on Fi-*
23 *nance of the Senate and the Committee on Ways and Means*
24 *of the House of Representatives on the results of the review.*

1 (c) *REVIEW BY INSPECTOR GENERAL.*—*The Inspector*
2 *General of the Department of the Treasury shall review and*
3 *audit the implementation of the programs described in sub-*
4 *section (a) as part of the Inspectors General's report re-*
5 *quired under the [Chief Financial Officers Act of 1990].*

6 **SEC. 203 REPORT ON PERSONNEL FLEXIBILITY.**

7 *Within 6 months of the date of enactment of this Act,*
8 *the Commissioner of Customs shall submit to the Committee*
9 *on Governmental Affairs and the Committee on Finance of*
10 *the Senate and the Committee on Government Reform and*
11 *the Committee on Ways and Means of the House of Rep-*
12 *resentatives a report on the Commissioner's recommenda-*
13 *tions for modifying existing personnel rules to permit more*
14 *effective management of the resources of the Customs Service*
15 *and for improving the ability of the Customs Service to ful-*
16 *fill its mission. The report shall also include an analysis*
17 *of why the flexibility provided under existing personnel*
18 *rules is insufficient to meet the needs of the Customs Serv-*
19 *ice.*

20 **SEC. 204. REPORT ON IMPLEMENTATION OF PERSONNEL**
21 **ALLOCATION MODEL.**

22 *The Commissioner of Customs shall, within 6 months*
23 *of the date of enactment of this Act, report to the Committee*
24 *on Finance of the Senate and the Committee on Ways and*
25 *Means of the House of Representatives on the implementa-*

1 *tion of the personnel allocation model under development*
2 *in the Customs Service.*

3 **SEC. 205. REPORT ON DETECTION AND MONITORING RE-**
4 **QUIREMENTS ALONG THE SOUTHERN TIER.**

5 *The Commissioner of Customs shall, not later than 6*
6 *months after the date of enactment of this Act, submit a*
7 *report to the Committee on Finance of the Senate and the*
8 *Committee on Ways and Means of the House of Representa-*
9 *tives regarding the requirements of the Customs Service for*
10 *counterdrug detection and monitoring of the arrival zone*
11 *along the southern tier of the United States. The report shall*
12 *include an assessment of—*

13 *(1) the performance of existing detection and*
14 *monitoring [assets];*

15 *(2) any gaps in radar coverage of the arrival*
16 *zone along the southern tier of the United States; and*

17 *(3) any limitations imposed on the enforcement*
18 *activities of the Customs Service as a result of the re-*

- 1 *liance on detection and monitoring [assets] operated*
- 2 *under the auspices of the Department of Defense.*

Amend the title so as to read: "An Act to authorize appropriations for the United States Customs Service, and for other purposes."

Passed the House of Representatives May 25, 1999.

Attest:

Clerk.

Staff Document

Chairman's Proposal

Steel Trade Enforcement Act of 1999

**Prepared by the Staff of the
Senate Committee on Finance
June 16, 1999**

I. Background

A. Challenges Facing the U.S. Industry

The current market conditions facing the United States steel industry are due to a combination of three factors -- global overcapacity in the steel industry, the collapse of foreign demand as a result of the Asian financial crisis, and the dramatic surge of imports into the United States that were sold at subsidized rates or at prices below the producer's cost of production.

1. Global Overcapacity in the Steel Industry

The first, and still the most persistent, problem facing U.S. steel is the legacy of over fifty years of state intervention in domestic steel markets abroad that has led to persistent overcapacity in the steel industry worldwide. From the 1930s on, state support for "national champions" in certain industries, particularly steel, led to policies designed to support the expansion of steel-making capacity regardless of market conditions.

Those policies continued along a spectrum from border measures like tariffs and quantitative restraints on imports to heavy government subsidies through grants and loans at below market rates to outright state ownership of production capacity. They also included the toleration of private anticompetitive practices and cartel-like behavior in certain markets, and policies designed to foster export-led growth. All these policies inhibited the market-clearing function of supply and demand.

The net result of those policies has been a continuing glut of steel

manufacturing capacity in world markets. Despite significant changes in attitudes on state intervention in the market that have taken place in the last ten years, and despite the privatization of many of the previously state-owned mills, the operations of the market -- particularly the capital markets which serve to siphon capital away from loss-making operations -- has not eliminated that overhang in capacity. Furthermore, the interference in the market that led to the global oversupply in the first place are still being practiced by various governments today.

2. Asian Financial Crisis and the Collapse in Foreign Demand

The second factor that has led to the current challenges facing the U.S. steel industry is the collapse of domestic demand in Asia and Russia in response to a global financial crisis that began in Thailand in July, 1997, and filtered through a number of Asian countries before it spread to Russia. The crisis occurred after several Asian countries and Russia underwent massive recessions and devalued or depreciated their currencies relative to the U.S. dollar.

The financial crisis that followed led both domestic and foreign investors in those countries to withdraw the capital that had primed the pump of economic growth. The financial crisis, combined with the continuing recession in Japan, sharply reduced global demand for many products, particularly steel. That decline in demand for steel products was not offset by the continuing strength of the American economy, and was, in fact, exacerbated by the strike against General Motors in the summer of 1998, which idled the world's largest automobile manufacturer for several weeks.

While world demand for steel remained high into 1997, the global overcapacity in the industry deflated prices and dampened profits, but did not fundamentally erode the competitive position of the U.S. steel industry. The collapse of demand worldwide, however, exposed the overcapacity in world steel markets and led to a sharp decline in world prices. The sharp devaluation or depreciation in foreign currencies with respect to the U.S. dollar and the continuing strong growth in the United States, combined with excess capacity overseas, led to a dramatic surge in imports from abroad. The great bulk of those imports were from three countries -- Japan, Russia, and Brazil -- where past, and in several respects, continuing state intervention in the market had led to significant

excess capacity.

3. Surge in Imports Sold Below Cost or at Subsidized Rates

The third factor that led to the current conditions in the steel industry was the reaction of foreign steel manufacturers to eroding domestic demand and the pressure, in some instances, to maintain production and employment levels. Foreign steel manufacturers began shifting production toward the U.S. market, selling at prices below their costs of production, according to the findings of the Department of Commerce in unfair trade actions filed by the U.S. steel industry.

Those producers also benefited, in certain instances, from foreign government subsidies according to the Commerce Department. Subsidies have the effect of buffering the subsidy recipients from the competitive effects of the collapse in demand. In effect, the subsidies permit them to continue to sell at prices below their costs without facing the financial consequences of those actions.

B. Impact on the Industry

Each of the factors noted above played a significant role in the sharp erosion in the competitive position of the U.S. industry in 1998. Over the past fifteen years, the U.S. industry has invested over \$50 billion into new technology, the modernization of equipment and facilities, and the training of workers. The result was a dramatic increase in productivity, and a sharp improvement in the fortunes of the industry.

Those changes in the industry were driven as much by the expansion of domestic competition from mini-mills operating electric arc furnaces and relying on low-cost scrap as a source material. As the mini-mills refined their technology and steadily expanded into new product lines, the rest of the industry was forced to adjust as well. That led to a stronger, globally competitive domestic steel industry. It also led to a dramatic down-sizing in employment as the number of workers required to produce a ton of steel steadily declined with the increases in productivity.

The U.S. industry has also become more closely integrated with international markets. That is due both to the importance of foreign

demand absorbing some of the continuing global overcapacity, as well as the increasing reliance on certain low-cost foreign manufacturers to produce semi-finished steel products for finishing in the United States. In other words, the U.S. steel industry had become a major importer of steel in its own right.

In 1997, the industry produced record amounts of steel. That steel was shipped principally to U.S. consuming industries, but certain sectors had begun to export growing quantities to foreign markets as well. The industry continued its plans to invest in new plant and equipment, and expanding production capacity, based on the positive market outlook for growing domestic and foreign demand for steel.

With the collapse of foreign demand, the dramatic surge in imports, and fierce price-cutting by foreign competition, particularly in hot-rolled steel products, however, the U.S. industry faced a dramatic erosion in its pricing power and its profitability. While the industry continued to ship steel at near record levels in 1998, individual operations were forced to sell at or significantly below their own costs to meet the surge in foreign competition.

That led to a significant idling of capacity in the United States, even after General Motors resumed production. The surge in import competition also led to significant lay-offs. While those job losses were not inconsistent with the long-term trend in the industry, the impact was particularly acute in certain enterprises that faced the fiercest competition from abroad.

Perhaps the most striking difference, however, between the United States and certain of its foreign competitors is the degree to which they are exposed to the pressure of the capital markets. In the United States, the industry must compete for capital with other rapidly expanding sectors of the United States economy, such as the computer software and telecommunications sectors. Where foreign steel manufacturers are insulated from the pressures of the capital markets by government action or, for example, the toleration of a domestic cartel in the industry, the foreign manufacturer can continue to produce and sell steel under circumstances that would drive a U.S. manufacturer out of business. That has the effect of forcing the U.S. steel industry to bear a higher share of the burden of economic adjustment in the steel industry to market conditions like the Asian financial crisis.

C. U.S. Government Response

The steel industry responded to the dramatic surge in below cost sales by filing petitions for relief under the antidumping and countervailing duty laws on hot-rolled products from Japan, Russia, and Brazil, and on carbon-quality steel plate from the Czech Republic, France, India, Indonesia, Italy, Japan, the Republic of Korea, and the former Yugoslav Republic of Macedonia. The industry also filed unfair trade actions against imports of stainless steel products from Belgium, Canada, France, Germany, Italy, Japan, Mexico, South Korea, South Africa, Taiwan, and the United Kingdom, and cold-rolled steel from Japan, Russia, Brazil, Argentina, China, Indonesia, South Africa, Slovakia, Taiwan, Thailand, Turkey, and Venezuela.

In processing the cases, the Department of Commerce relied on the flexibility provided under the unfair trade laws to accelerate the investigation of the allegations raised in the petitions as much as possible. In addition, the Department worked with the Bureau of Census to accelerate the rate at which import information critical to the industry's cases could be made available at an earlier stage than was normally the case for the public release of such information. The Department also adopted a new methodology to account for significant currency-driven distortions in dumping margin calculations in an attempt to ensure that dumping was not being masked by large currency devaluations.

The filing of the steel industry's unfair trade actions led to a sharp decrease in the imports of products subject to the investigation. The Commerce Department ultimately found significant dumping and, in certain instances, subsidy margins against the foreign exporters. On June 11, in the case of imports of hot-rolled products from Japan, the International Trade Commission unanimously found the industry had been injured or threatened with material injury by reason of the dumped imports. Orders imposing the penalty duties under the antidumping laws should be forthcoming shortly.

In the course of investigating the allegations raised by the industry's petitions, the Commerce Department also began a series of negotiations of what are known as suspension agreements. Such agreements suspend an unfair trade action in favor of a negotiated agreement that normally sets a price floor for imports from the companies affected, and, in the case of non-market economies, may set

an overall quantitative limit as well. In the first of those agreements with Russia, the Department negotiated an arrangement that barred entry of Russian hot-rolled steel for six months and then permitted imports subject to significant limitations on prices and quantities. The second agreement sharply limited imports of other types of steel products from Russia, not just those subject to the antidumping investigation. More recently, the Department reached tentative suspension agreements with Brazil limiting the price and quantity at which hot-rolled steel could be sold in the United States.

The U.S. industry's response to the suspension agreements has been negative. In the industry's view, the Department should have completed the investigations and imposed the resulting antidumping and countervailing duties on the theory that the margins would be so significant that they would close the U.S. market entirely to the dumped or subsidized imports. In the industry's view, although the agreements sharply limit the dumped and subsidized imports, they do not go as far as the law might have gone had the cases run their course, and the investment made by private parties in litigating the cases was undercut.

The Administration has also responded to the Asian financial crisis and the economic difficulties of facing Russia with policies that they designed to restore economic growth. While the policy approach adopted has been subject to ongoing scrutiny and considerable criticism, a number of the Asian economies that had suffered through the first wave of the financial crisis do appear to have resumed economic growth. The most notable of these is South Korea, which not coincidentally undertook the deepest reforms of its own economy.

In other words, the actions taken by the Administration to date have been designed to address two of the three root problems facing the U.S. steel industry -- the surge in below cost sales of foreign steel and the restoration of foreign demand. While the Administration's policies have not accomplished all that the industry would have preferred, imports have fallen off sharply and even those U.S. mills facing the fiercest initial competition from surging imports have begun hiring workers laid off in the midst of the heaviest competition from below cost sales of foreign steel.

What the Administration has not done to date is to adopt a comprehensive plan for addressing the more fundamental problem facing

the industry -- that of global overcapacity and the foreign government practices that insulated foreign steel producers from the capital market pressures faced day-to-day by U.S. steel.

D. Legislative Action

The onset of the surge in imports led to the introduction of a number of legislative initiatives. In March, the House passed a measure - H.R. 975 -- that would impose quotas on imported steel. That measure is the counterpart to S. 395, introduced by Senator Rockefeller. In the interim, imports of foreign steel have fallen to levels below those set in the quota bill, but advocates for the bill insist that such a measure is needed to ensure against the sort of surge the industry faced in 1997 and 1998.

Two other significant measures have been introduced in both the Senate and House to respond to the import surges facing the steel industry. The first would affect the use of the safeguards mechanism under section 201 of the Trade Act of 1974. Section 201 allows the President to impose restrictions on imports if the International Trade Commission finds that such imports are causing or threatening to cause serious injury to the domestic industry. In order to obtain relief under section 201, a petitioner must show that imports are the most important cause of injury, or the threat thereof, to the domestic industry -- a standard which is arguably more stringent than is required under World Trade Organization ("WTO") Agreement on Safeguards.

Although section 201 provides the most direct means under the U.S. trade laws to address dramatic surges in imports, regardless of whether the products are fairly or unfairly traded, neither the U.S. industry nor the steelworkers union has chosen to file a case. They have relied instead on antidumping and countervailing duty cases. In practice, section 201 has not been widely used, in part because of the relatively strict injury test the petitioner must satisfy in order to obtain relief. That said, petitioners have been more successful recently in cases involving lamb meat, wheat gluten, and broomcorn brooms.

The lone exception to the steel industry's rejection of section 201 has been the filing by the steel wire rod industry. In response to the dramatic import surges facing the industry and the difficulty the industry faced in adjusting economically to those surges, the wire rod industry

filed for relief under section 201 in December 1998. The decision on injury issued in May of this year evenly divided the ITC; however, under the statute that was sufficient to forward a recommendation of relief to the President and that recommendation should be forthcoming from the ITC shortly.

The second measure other than the quota bill that has garnered particular attention has been a bill to amend the antidumping laws in several significant respects. The House bill, H.R. 1505, introduced by Representative English, would modify the laws in ways that would, on balance, make it easier to establish both dumping and injury in such unfair trade cases and would reopen a number of questions that were decided by the Committee and the Congress in implementing the Uruguay Round antidumping agreement.

The bills that have been introduced thus far are primarily aimed at creating mechanisms to reduce steel imports. The antidumping law, for example, is fundamentally designed to redress injurious price discrimination. It can only indirectly address a dramatic surge in imports, for which section 201 is designed, or the more fundamental problem of eliminating practices that insulate foreign steel manufacturers from the pressures of the capital market.

Where action is, in fact, most needed is in eliminating the market distorting government practices that have resulted in the persistent global overcapacity in the steel industry. As stated in the President's Report to Congress on steel in January of this year:

[M]any foreign governments continue to view steel production and self-sufficiency in steel as prerequisites to economic development. Foreign steel industries have often been supported through government subsidies to encourage expansion or forestall restructuring.

Without the elimination of these practices, many foreign steel producers will continue to be insulated from the capital market pressures that facing the U.S. industry. Absent the elimination of these practices, the industry will face a continuing glut of steel making capacity abroad and the industry, its workers and the country will face the consequences of the past year in steel markets whenever the economic cycle turns down again in the future. The following proposal is designed to implement a

sustained strategy for eliminating the foreign government practices that continue to support the overcapacity in steel manufacturing worldwide.

II. Chairman's Proposal

The Chairman's proposal would take two significant steps to address the current challenges facing the steel industry and steel workers. The first is to initiate an investigation of the market-distorting practices that insulate foreign steel manufacturers from competition in their domestic markets and insulate them from the capital market pressures facing the steel industry in the United States. The proposal would require the development of a comprehensive, government-wide strategy to eliminate foreign market-distorting practices affecting the U.S. steel industry and institute a follow-up mechanism akin to the provisions of Special 301 to ensure that action is taken to address the fundamental problem facing the steel industry today.

The second would be to conform section 201 of the Trade Act of 1974 to the standards provided under the World Trade Organization Agreement on Safeguards. The proposal would also establish a monitoring program to facilitate timely release of data on steel imports and a directive to the United States executive directors of the international financial institutions -- such as the World Bank and the International Monetary Fund -- mandating that they use their voice and vote to prevent funds from the development banks being used to subsidize foreign steel capacity.

Section-by-Section Analysis

The Chairman's proposal consists of the following provisions.

Section 1. Short Title.

Section 1 would set out the short title of the Chairman's proposal - the "Steel Trade Enforcement Act of 1999."

Section 2. Findings.

Section 2 will detail Congress' findings regarding the challenges

facing the United States steel industry, emphasizing the need for a comprehensive strategy to seek the elimination of the market-distorting government practices, such as subsidies, state ownership and the toleration of anticompetitive practices that have led to the persistent overcapacity in the steel industry worldwide.

Title I -- Comprehensive Strategy for the Elimination of Market-Distorting Factors Affecting the Global Steel Industry.

Section 101 -- Directive to the United States Trade Representative.

Section 101(a): Section 101(a) would direct the United States Trade Representative ("USTR"), to initiate, within 45 days of the enactment of this Act, an investigation under section 301 of the Trade Act of 1974 of market-distorting practices that have insulated foreign steel producers from competitive pressures and have contributed to the investment in and development of steel manufacturing capacity on terms inconsistent with competitive market conditions.

Section 101(b): Section 101(b)(1) would require the USTR to identify a priority list of the most significant foreign market-distorting practices that have the greatest impact on the U.S. steel industry as targets for action under section 301 or the other authorities set out in section 101(e). Section 101(b)(2) would require the USTR to update that list of priority foreign market-distorting practices called for under section 101(b)(1) on an annual basis. Section 101(b)(3) would include the identification of foreign market-distorting practices affecting the steel industry of the United States among those acts, policies, or practices requiring the initiation of an investigation under section 301 of the Trade Act of 1974 in the absence of any action by the foreign government to eliminate such practices.

Section 101(c): Section 101(c) would require the USTR to conduct public hearings and to publish requests for public comment as required under the section 301 process and to consider all relevant factors including:

- (1) the market-distorting practices identified in her investigations;
- (2) the impact of foreign market-distorting practices on the United

States economy generally and on the United States steel industry and its workers specifically;

(3) the extent to which a foreign country's market-distorting practices are prohibited under the trade agreements to which that foreign country is a party;

(4) the extent to which a foreign country's market-distorting practices are prohibited under existing commitments made by that foreign country to the international financial institutions; and

(5) the views of the public, the United States steel industry and its workers, and steel using industries.

Section 101(d): Section 101(d) would direct the USTR, in the course of her investigation, to develop a comprehensive strategy for the elimination of those market-distorting practices identified under section 101(b).

Section 101(e): Section 101(e) would direct the USTR to include within her strategy what actions she plans to take, as well as her recommendations as to what actions the President or the appropriate department should take, to eliminate foreign market-distorting practices. Such actions would include, but are not limited to, the following:

(1) Negotiations on a multilateral or bilateral basis to liberalize trade in steel products worldwide, including --

(A) the elimination of tariffs, quantitative restraints, licensing requirements or any other barrier to imports of steel products that have the effect of insulating foreign steel producers from competition;

(B) the elimination of any export or production subsidies conferred by foreign governments on steel producers, including the provision of capital or inputs at below market rates that have the effect of distorting the terms of trade or encouraging investment in steel manufacturing capacity that would not occur or would not be maintained under competitive market conditions;

(C) the elimination of restrictions on capital movements or investment that allow governments to insulate foreign manufacturers from the competitive effects of the functioning of global capital markets or otherwise permit such governments to direct financing to foreign steel manufacturers regardless of market conditions; and

(D) the privatization of any state-owned steel manufacturing capacity where the government ownership permits the manufacturer to operate on non-commercial terms.

(2) Self-initiation by the President of action under section 201 of the Trade Act of 1974 in order to redress serious injury to the industry due to a recurrence of surges in imports;

(3) Use of the authority available to the President under section 122 of the Trade Act of 1974 to address fundamental international payments problems, including her assessment of the impact on the steel industry of any competitive devaluations or significant depreciations in foreign currencies against the dollar;

(4) Self-initiation by the Secretary of Commerce of countervailing duty actions under U.S. law in order to address market distorting subsidies, whether to export or to production, to penalize the use of such subsidies that encourage investment in plant and capacity that would not be made under competitive market conditions;

(5) Self-initiation by the Secretary of Commerce of antidumping actions in response to --

(A) below cost sales of products into the United States where the government of the foreign producer has, through a combination of market access barriers, subsidies, or mandating or encouraging financing of foreign steel production has encouraged the construction, maintenance, or expansion of steel manufacturing capacity on terms or under circumstances that are inconsistent with normal competitive market conditions; or

(B) sales in the United States at prices below the home market price of the foreign exporter where the failure of

markets to arbitrage the difference in prices reflects government intervention in the market designed to insulate the foreign producers from competition;

(6) Self-initiation by the United States Trade Representative of an action under section 301 of the Trade Act of 1974 in response to any action by a foreign government in violation of a trade agreement to which the United States is a party or in response to any foreign government act, policy or practice that has the effect of encouraging the construction, maintenance, or expansion of steel manufacturing capacity on terms or under conditions that are inconsistent with normal competitive market conditions;

(7) Initiation by the Attorney General or the Chair of the Federal Trade Commission of an investigation of private anticompetitive behavior among foreign steel producers that have the effect of insulating them from competitive pressures of the marketplace and lead to adverse impacts in our market, including any credible allegations of the cartelization of particular markets by foreign producers; and

(8) Authorization of appropriations necessary to fund the actions contemplated by her comprehensive strategy on steel.

Section 102 -- Appointment of Coordinator and Establishment of Interagency Working Group.

Section 102(a) would direct the USTR to appoint one of her deputies to serve as the coordinator of the investigations to identify foreign market-distorting practices and of the development of the comprehensive strategy for eliminating such practices required by section 101(d)..

Section 102(b) would establish an interagency working group at the deputies level composed of representatives from the Departments of Commerce, Justice, State, Treasury, and Labor, and the directors of the National Economic Council and the National Security Council to assist the USTR in the development and the implementation of her strategy.

Section 103 -- Public Notice and Consultation with Congress.

Section 103 would set strict consultation and reporting requirements for USTR to consult on a bi-monthly basis with the Senate Finance Committee and the House Ways and Means Committee on her actions. Specifically, the USTR would be directed to report to these committees on her strategy six months after the enactment of this Act, and to report on a regular basis on the implementation of her strategy.

Section 104 -- Investigations.

Section 104(a) would direct the USTR to request, pursuant to her authority to initiate investigations by the International Trade Commission under section 332 of the Tariff Act of 1930 and subject to such deadlines as she may establish, such economic analyses and reports and as she may deem necessary to her investigation and to the development of a comprehensive strategy.

Section 104 (b) would direct the President to make available to USTR such resources from the other agencies and departments of the executive branch as the USTR may deem necessary to conduct her investigation and develop her strategy, including the overseas reporting capabilities of the U.S. Foreign Service, the U.S. and Foreign Commercial Service, and the attaches of the Department of the Treasury, as she may direct.

Title II -- Modifications to Section 201 of the Trade Act of 1974

Title II of the Chairman's proposal would make certain modifications to section 201 of the Trade Act of 1974 (the "1974 Act"). These modifications are intended to improve the section 201 mechanism, and ensure the consistency of the law with the World Trade Organization Agreement on Safeguards (the "Safeguards Agreement").

The Chairman's proposal would conform the current standard of causation in section 201(a) of the 1974 Act to reflect the standard in the Safeguards Agreement. The WTO standard requires that imports simply "cause or threaten to cause serious injury," while the current standard of

causation in U.S. law requires that imports be a "substantial cause of serious injury, or the threat thereof, to the domestic industry." The Chairman's proposal would employ the term "cause," as does the Safeguards Agreement, and clarify that the term "cause" means a cause that is important and contributes significantly to the serious injury to the domestic industry, but is not necessarily the most important cause.

The Chairman's proposal would amend section 202 to include additional factors that are enumerated in the Safeguards Agreement that the ITC must consider in determining whether a petitioner has suffered serious injury or the threat of such injury. The proposal would amend section 202 to require the ITC to examine the rate of increase in imports and to consider as relevant if the imports have increased over a short period of time in determining whether imports are the cause of injury to the petitioner.

The Chairman's proposal would also codify existing practice by the International Trade Commission by directing the Commission to consider whether any change in the volume of imports has occurred since the filing of a petition in determining whether there is injury or threat of injury.

The Chairman's proposal would also expand availability of provisional relief to section 201 investigations initiated by the President or the Congress. Under current law, the Commission can only make a critical circumstances finding when the petition is filed by the domestic industry. This provision would also specifically enumerate import surges as being a relevant factor in determining if there is a need for a critical circumstances finding.

The Chairman's proposal would also direct the President to consider certain factors in deciding what actions to take upon the receipt of an affirmative determination from the ITC. Specifically, the Chairman's proposal directs to take all appropriate and feasible action within his power which the President determines will facilitate efforts by the domestic industry to make a positive adjustment to import competition, unless such actions have an adverse impact on the United States substantially out of proportion to the benefits of such action. In determining what actions to take, the proposal would direct the President to give substantially greater weight to the economic and social costs which would be incurred by taxpayers, communities, and workers if

import relief were not granted, unless doing so would be inconsistent with the overall economic interest of the United States.

The Chairman's proposal would also amend section 202 to shorten the time frame for provisional relief from 90 to 65 days. The time saving occurs by shortening the critical circumstances finding of the Commission from 60 to 45 days and shortens the time available from 30 to 20 days for the President to determine whether to follow a critical circumstances finding of the Commission.

The Chairman's proposal would also make certain additional conforming, technical and other minor modifications to the section 201 mechanism.

Title III -- Mechanisms to Allow for the Timely Release of Import Data.

The Chairman's proposal would include a number of proposals to improve the ability of U.S. companies to monitor steel imports and to obtain the early release of data regarding such imports. The purpose of these proposals is to allow U.S. companies to more quickly assess whether there is a surge in imports of a particular product.

The Chairman's proposal would amend section 332 to establish a statutory procedure that would enable domestic industries or representatives of domestic industries to request that the President consider whether import monitoring is appropriate, and if so, to request such monitoring and data collection by the ITC. The requesting party would have to allege that the item is being imported in such increased quantities as to cause serious injury, or threat thereof, to the domestic industry.

The Chairman's proposal would allow the Director of the Office of Management and Budget to provide for the early release to the public of data on imports of a particular product. This proposal codifies authority that is already vested in the OMB through regulation. This proposal would facilitate the early identification of potentially disruptive import surges.

The Chairman's proposal would authorize the establishment of a

"Steel Import Monitoring and Enforcement Support Center" within the Department of Commerce.

The Chairman's proposal would also direct the Secretaries of Treasury and Commerce and the International Trade Commission to establish a suffix to the Harmonized Tariff Schedule for merchandise subject to antidumping or countervailing duty orders or subject to an action by the President pursuant to section 201 or section 406 of the Trade Act of 1974. This provision would allow for the better tracking of imports that are under certain restrictions.

The Chairman's proposal would also direct the Secretary of Commerce to monitor imports on a monthly basis for import surges and potential unfair trade through the year 2000. Products to be monitored shall be determined by the Secretary of Commerce based on the percentage increase in imports, the volume or value of imports, the level of import penetration and any other factor the Secretary considers necessary.

Title IV -- Prevention of Funds from the International Financial Institutions Being Used to Subsidize Foreign Steel Industries.

Title IV of the Chairman's proposal would require the Secretary of the Treasury to instruct the United States Executive Directors to the various international financial institutions -- such as the World Bank and the International Monetary Fund -- aggressively to use their voice and vote and to exert the influence of the United States to --

- (a) oppose any disbursements of funds to any recipient that would be used to provide financial assistance to the steel industry in any manner that would encourage the expansion of existing steel-making capacity;
- (b) promote policies to encourage the privatization of steel mills that remain in state ownership;
- (c) promote policies that encourage immediate economic growth and the resumption and increase in the domestic demand for steel, including --

- (1) currency and exchange rate stability,
- (2) encouraging productive capital inflows,
- (3) productive cuts in marginal tax rates on wages, income, and capital,
- (4) and the liberalization of trade in goods, services and investment.

COMMITTEE ON FINANCE

**MODIFICATIONS TO CHAIRMAN'S PROPOSAL
ON THE STEEL TRADE ENFORCEMENT ACT OF 1999**

JUNE 16, 1999

1) TITLE I - Section 101(c)

Would add a paragraph (6) that would read:

"(6) the extent to which a foreign government's failure to enforce its anti-monopoly law leads to market-distorting practices."

2) TITLE I - Section 101(e)

Would specify that when the comprehensive strategy is reported to the Congress, it shall include a time schedule for implementation.

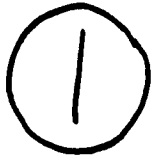
3) TITLE I - Section 101(e)(1)

Would add a subparagraph (E) that would read:

"(E) the elimination of administrative guidance by a foreign government on its steel producers that leads to market-distorting practices or prevents the elimination of market-distorting practices."

4) TITLE I - Section 101(e)(7)

Would clarify the focus of any investigation by the Attorney General or the Federal Trade Commission by indicating that the purpose would be to examine (1) private anticompetitive behavior, (2) government toleration of anti-competitive behavior, and (3) government action that encourages or requires anti-competitive behavior or government action that prevents the elimination of anti-competitive behavior.



Amendment
Weekly Entry for Foreign-Trade Zones

Section 484 of the Tariff Act of 1930 (19 U.S.C. § 1484 (a)) is amended by adding at the end of subsection (a) therefore the following new paragraph, designated as subsection (a)(3):

Notwithstanding any other provision of law, and effective upon the date of enactment of this provision, all merchandise (including merchandise of different classes, types, and categories), with the exception of merchandise prohibited by law or merchandise for which the filing of an entry summary is required prior to its release from Customs custody, withdrawn from a foreign-trade zone during a week consisting of any seven-day period, shall, at the option of an operator or user of a zone, be the subject of a single estimated entry or release filed on or before the first day of the seven-day period in which the merchandise is to be withdrawn from the zone. Such estimated entry or release shall be treated as a single entry of, and a single release of merchandise for purposes of subsection (a)(9)(A) of section 58c of this title and shall be subject to all fee exclusions and limitations of such section 58c, including the maximum and minimum fee amounts provided for under subsection (b)(8)(A)(i) of such section 58c of this title. The entry summary for the estimated entry or release shall cover only that merchandise actually withdrawn from the foreign-trade zone during the seven-day period.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To extend the weekly entry procedures of the Customs Service to all operations in a foreign trade zone.

IN THE SENATE OF THE UNITED STATES—106th Cong., 1st Sess.

S.

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. LOTT

Viz:

1 At the appropriate place, insert the following new sec-
2 tion:

3 SEC. ____ **ENTRY PROCEDURES FOR FOREIGN TRADE ZONE**
4 **OPERATIONS.**

5 (a) **IN GENERAL.**—Section 484 of the Tariff Act of
6 1930 (19 U.S.C. 1484) is amended by adding at the end
7 the following new subsection:

8 “(i) **SPECIAL RULE FOR FOREIGN TRADE ZONE OP-**
9 **ERATIONS.**—

10 “(1) **IN GENERAL.**—Notwithstanding any other
11 provision of law and except as provided in paragraph
12 (3), all merchandise (including merchandise of dif-
13 ferent classes, types, and categories), withdrawn

1 from a foreign trade zone during any 7-day period,
2 shall, at the option of the operator or user of the
3 zone, be the subject of a single estimated entry or
4 release filed on or before the first day of the 7-day
5 period in which the merchandise is to be withdrawn
6 from the zone. The estimated entry or release shall
7 be treated as a single entry and a single release of
8 merchandise for purposes of section 13031(a)(9)(A)
9 of the Consolidated Omnibus Budget Reconciliation
10 Act of 1985 (19 U.S.C. 58c(a)(9)(A)) and all fee ex-
11 clusions and limitations of such section 13031 shall
12 apply, including the maximum and minimum fee
13 amounts provided for under subsection (b)(8)(A)(i)
14 of such section. The entry summary for the esti-
15 mated entry or release shall cover only the merchan-
16 dise actually withdrawn from the foreign trade zone
17 during the 7-day period.

18 “(2) OTHER REQUIREMENTS.— The Secretary
19 of the Treasury may require that the operator or
20 user of the zone—

21 “(A) use an electronic data interchange ap-
22 proved by the Customs Service—

23 “(i) to file the entries described in
24 paragraph (1); and

1 “(ii) to pay the applicable duties, fees,
2 and taxes with respect to the entries; and

3 “(B) satisfy the Customs Service that ac-
4 counting, transportation, and other controls
5 over the merchandise are adequate to protect
6 the revenue and meet the requirements of other
7 Federal agencies.

8 “(3) EXCEPTION.—The provisions of paragraph
9 (1) shall not apply to merchandise the entry of
10 which is prohibited by law or merchandise for which
11 the filing of an entry summary is required before the
12 merchandise is released from customs custody.

13 “(4) FOREIGN TRADE ZONE; ZONE.—In this
14 subsection, the terms ‘foreign trade zone’ and ‘zone’
15 mean a zone established pursuant to the Act of June
16 18, 1934, commonly known as the Foreign Trade
17 Zones Act (19 U.S.C. 81a et seq.).”

18 “(b) EFFECTIVE DATE.—The amendment made by
19 this section shall take effect on the date of enactment of
20 this Act.

AMENDMENT

A handwritten signature in black ink, appearing to read "Max Baucus". The signature is fluid and cursive, with a long horizontal stroke at the end.

Section 101(d)

Add "After the comprehensive strategy is completed and reported to the Congress, the Congress would have thirty days to pass a resolution of disapproval of that strategy"

BACKGROUND

The purpose of this amendment is to ensure genuine and thorough consultation with the Congress from day one. The possibility of a vote to disapprove will be a strong motivation for USTR and the Administration to work closely with the Congress, take our views seriously and continuously into account, and be accountable to us.

STEEL



Baucus Amendments to the Steel Bill - #

101(d)

In the Mark now: The comprehensive strategy would be completed within six months from the date of this legislation.

Add this concept: Once the comprehensive strategy is completed and reported to the Congress, the Congress would have sixty days to pass a resolution of disapproval of that strategy.

HATCH

2

1. Attached please find a draft amendment establishing new quantitative restrictions on the negotiation of suspension agreements related to countervailing duties [sec. 704(d)(1) of the Tariff Act of 1930] and anti-dumping duties [sec. 734(d), *id.*].
2. At the moment, the amendment is intended to be a marker at the appropriate place in the *Steel Trade Enforcement Act* text.

Hatch

SEC. 101. DOMESTIC INDUSTRY SUPPORT FOR SUSPENSION
AGREEMENTS.

(a) COUNTERVAILING DUTY CASES.—Section 704(d)(1) of the Tariff Act of 1930 (19 U.S.C. 1671c(d)(1)) is amended—

(1) by striking “and” at the end of subparagraph (A);

(2) in subparagraph (B) by striking the period and inserting “, and”; and

(3) by inserting after subparagraph (B) the following new subparagraph:

“(C) domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product support the agreement.”

(b) ANTIDUMPING DUTY CASES.—Section 734(d) of the Tariff Act of 1930 (19 U.S.C. 1673c(d)) is amended—

(1) by striking “and” at the end of paragraph (1);

(2) in paragraph (2), by striking the period and inserting “, and”; and

(3) by inserting after paragraph (2) the following new paragraph:

“(3) domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product support the agreement.”

Gramm

③

Gramm Amendment to the Steel Trade Enforcement Act of 1999

Strike the provisions of Title II.

Gramm Amendment to the Steel Trade Enforcement Act of 1999

Strike the provisions of Title II and replace it with the following:

Title II. Reduction in Volume of Steel Imports.

(a) Reduction. - Notwithstanding any other provision of law, within 60 days after the date of the enactment of this Act, the President shall take the necessary steps, by imposing quotas, tariff surcharges, negotiated enforceable voluntary export restraint agreements, or otherwise, to ensure that the volume of steel products imported into the United States during any month does not exceed the average volume of steel products that was imported monthly into the United States during the 36-month period preceding July 1997.

(b) Enforcement Authority. - Within 60 days after the date of the enactment of this Act, the Secretary of the Treasury, through the United States Customs Service, and the Secretary of Commerce shall implement a program for administering and enforcing the restraints on imports under this section. The Customs Service is authorized to refuse entry into the customs territory of the United States of any steel products that exceed the allowable levels of imports of such products.

(c) Applicability -

(1) Categories. - This section shall apply to the following categories of steel products: semi-finished, plates, sheets and strips, wire rods, wire and wire products, rail type products, bars, structural shapes and units, pipes and tubes, iron ore, and coke products.

(2) Volume. - Volume of steel products for purposes of this section shall be determined on the basis of tonnage of such products.

(d) Expiration. - This section shall expire at the end of the 3-year period beginning 60 days after the date of the enactment of this Act.

Gramm

5

Gramm Amendment # to Steel Enforcement Act of 1999

Strike the provisions of Title II and replace it with the following:

TITLE II. TRADE NEGOTIATING AUTHORITY FOR THE PRESIDENT

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reciprocal Trade Agreements Act of 1999."

MOYNIHAN/HATCH AMENDMENT
REQUIRING INDUSTRY SUPPORT FOR SUSPENSION AGREEMENTS
(to the Chairman's Mark of the Steel Trade Enforcement Act of 1999)

Amend sections 704 (countervailing duty law) and 731 (antidumping law) of the Tariff Act of 1930 to require majority industry support before the Administration can conclude agreements suspending ongoing antidumping or countervailing duty investigations. Provides an exception if the President determines that failure to enter into such an agreement would undermine the national security or pose an extraordinary threat to the economy of the United States.



Committee On Finance

William V. Roth, Jr., Chairman

NEWS RELEASE

FOR IMMEDIATE RELEASE

June 16, 1999

www.senate.gov/~finance

Press Release #106-150

Contact: Ginny Flynn
202/224-4288
Tara Bradshaw
202/224-5218

ROTH COMMENTS ON STEEL LEGISLATION

WASHINGTON -- The Senate Finance Committee today marked up a bill authored by Chairman William V. Roth, Jr. to address the problems facing the U.S. steel industry. Chairman Roth made the following comments about the legislation:

"Before we turn to the Steel Trade Enforcement Act of 1999, I'd like to say a few words. I have proposed this legislation for a number of reasons. This Committee heard testimony as far back as January from steel producers and unions on the problems facing the U.S. steel industry. On March 23, the Committee held a hearing specifically on the steel situation, and heard from consuming industries as well as producing industries and unions.

"On March 17, the House passed H.R. 975, the steel quota bill, by a substantial margin. This bill will be voted on by the Senate some time next week, and I take seriously the prospect that the forces behind this measure could convince many members of the Senate that this drastic measure is necessary, beneficial, or a "free" vote. It is not a "free" vote. It would dramatically raise the price of steel for U.S. consumers, forcing layoffs in consuming industries and serving as an artificial tax on every person, regardless of income, who buys anything from a car to kitchen appliances.

"That is why I have sought to address the real problem facing the steel industry, the worldwide overcapacity of steel. This global steel glut is the result of market distorting government practices around the world. Without the elimination of these practices, many foreign steel producers will continue to be insulated from the capital market pressures that face the U.S. industry. The following proposal is designed to implement a sustained strategy for eliminating the foreign government practices that continue to support the overcapacity in steel manufacturing worldwide.

"Again, I have accepted a number of modifications to the mark to address concerns raised by members. Given that, I want to encourage the Committee to move this proposal forward without amendment."

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**ATTENDANCE LIST
SENATE FINANCE COMMITTEE**

DATE OF MARK-UP: June 16, 1999

[Time: 9:35 a.m. - 12:13 p.m.]

TOPIC OF MARK-UP: H.R. 1833, The Customs Authorization Act of 1999
Chairman's Mark of The Steel Trade Enforcement Act.

S.1254

MEMBERS	PRESENT
Mr. Chafee	X
Mr. Grassley	X
Mr. Hatch	X
Mr. Murkowski	X
Mr. Nickles	
Mr. Gramm	X
Mr. Lott	
Mr. Jeffords	
Mr. Mack	X
Mr. Thompson	X
Mr. Moynihan	X
Mr. Baucus	X
Mr. Rockefeller	X
Mr. Breaux	X
Mr. Conrad	X
Mr. Graham	X
Mr. Bryan	X
Mr. Kerrey	
Mr. Robb	X
Mr. Chairman	X

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SENATE FINANCE COMMITTEE

DATE: June 16, 1999

VOTE ON: H.R. 1833, The Customs Authorization Act of 1999. Motion to strike all after the enacting clause and insert the text of the Chairman's Mark, as amended, by this Committee with the understanding that Committee staff be permitted to make any technical corrections that may be necessary.

ADOPTED UNANIMOUSLY BY VOICE VOTE

MEMBERS INDICATED WERE PRESENT WHEN THE VOTE

OCCURRED.

	Present for vote
Mr. Chafee	X
Mr. Grassley	X
Mr. Hatch	
Mr. Murkowski	
Mr. Nickles	
Mr. Gramm	X
Mr. Lott	
Mr. Jeffords	
Mr. Mack	X
Mr. Thompson	X
Mr. Moynihan	X
Mr. Baucus	X
Mr. Rockefeller	X
Mr. Breaux	
Mr. Conrad	
Mr. Graham	
Mr. Bryan	X
Mr. Kerrey	
Mr. Robb	X
Mr. Chairman	X
TOTAL	11

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SENATE FINANCE COMMITTEE

DATE: June 16, 1999

VOTE ON: H.R. 1833, The Customs Authorization Act of 1999. Motion to report favorably the House bill, as amended, to the Senate.

ORDERED REPORTED FAVORABLY BY VOICE VOTE
MEMBERS INDICATED WERE PRESENT WHEN THE VOTE
OCCURRED.

	Present for vote
Mr. Chafee	X
Mr. Grassley	X
Mr. Hatch	
Mr. Murkowski	
Mr. Nickles	
Mr. Gramm	X
Mr. Lott	
Mr. Jeffords	
Mr. Mack	X

Mr. Thompson	X
Mr. Moynihan	X
Mr. Baucus	X
Mr. Rockefeller	X
Mr. Breaux	
Mr. Conrad	
Mr. Graham	
Mr. Bryan	X
Mr. Kerrey	
Mr. Robb	X
Mr. Chairman	X
TOTAL	11

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SENATE FINANCE COMMITTEE

DATE: June 16, 1999

VOTE ON: Baucus amendment to the Steel Bill states that, once the comprehensive strategy is completed and reported to the Congress, the Congress would have 30 days to pass a resolution of disapproval or that strategy.

MOTION FAILED BY VOICE VOTE, NOT UNANIMOUSLY

	Present for vote
Mr. Chafee	X
Mr. Grassley	X
Mr. Hatch	
Mr. Murkowski	
Mr. Nickles	
Mr. Gramm	X
Mr. Lott	
Mr. Jeffords	
Mr. Mack	X
Mr. Thompson	X
Mr. Moynihan	X
Mr. Baucus	X
Mr. Rockefeller	X
Mr. Breaux	
Mr. Conrad	
Mr. Graham	
Mr. Bryan	X
Mr. Kerrey	
Mr. Robb	X
Mr. Chairman	X

TOTAL	11
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SENATE FINANCE COMMITTEE

DATE: June 16, 1999

VOTE ON: Gramm amendment to strike Title II of The Steel Trade Enforcement Act.

YEAS	NAYS	
X		Mr. Chafee
	X	Mr. Grassley
	X	Mr. Hatch
X		Mr. Murkowski
P		Mr. Nickles
X		Mr. Gramm of Texas
	P	Mr. Lott
	P	Mr. Jeffords
P		Mr. Mack
		Mr. Thompson
	X	Mr. Moynihan
	P	Mr. Baucus
	X	Mr. Rockefeller
	P	Mr. Breaux
	P	Mr. Conrad
	X	Mr. Graham of Florida
	P	Mr. Bryan
	P	Mr. Kerrey
	X	Mr. Robb
	X	Mr. Chairman
5	14	TOTAL

.Note: No instruction from Thompson on this vote.

SENATE FINANCE COMMITTEE

DATE: June 16, 1999

VOTE ON: Moynihan/Hatch amendment to the Steel Bill that would amend section 704 (countervailing duty law) and 731 (antidumping law) of the Tariff Act of 1930 to require majority industry support before the

Administration can conclude agreements suspending ongoing antidumping or countervailing duty investigations. Provides an exception if the President determine that failure to enter into such an agreement would undermine the national security or pose an extraordinary threat to the economy of the United States.

YEAS	NAYS	
	X	Mr. Chafee
	X	Mr. Grassley
P		Mr. Hatch
P		Mr. Murkowski
	P	Mr. Nickles
	X	Mr. Gramm of Texas
		Mr. Lott
P		Mr. Jeffords
	X	Mr. Mack
	X	Mr. Thompson
X		Mr. Moynihan
X		Mr. Baucus
X		Mr. Rockefeller
X		Mr. Breaux
X		Mr. Conrad
	P	Mr. Graham of Florida
	X	Mr. Bryan
P		Mr. Kerrey
X		Mr. Robb
X		Mr. Chairman
11	8	TOTAL

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Note: Lott passed on this vote.

SENATE FINANCE COMMITTEE

DATE: June 16, 1999

VOTE ON: Motion to report favorably Chairman's Mark of The Steel Trade Enforcement Act, as amended, to the Senate with the understanding that Committee staff be permitted to make any technical corrections that may be necessary.

YEAS	NAYS	
X		Mr. Chafee
X		Mr. Grassley
X		Mr. Hatch
X		Mr. Murkowski
P		Mr. Nickles
	X	Mr. Gramm of Texas

P		Mr. Lott
P		Mr. Jeffords
	P	Mr. Mack
		Mr. Thompson
X		Mr. Moynihan
X		Mr. Baucus
	X	Mr. Rockefeller
P		Mr. Breaux
P		Mr. Conrad
X		Mr. Graham of Florida
P		Mr. Bryan
P		Mr. Kerrey
X		Mr. Robb
X		Mr. Chairman
9	2	TOTAL

Note: Proxy votes do not factor in the final motion to report. [16 yeas 3 nays with proxies]

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SENATE FINANCE COMMITTEE

DATE: June 16, 1999

VOTE ON: Motion to report favorably Chairman's Mark of The Steel Trade Enforcement Act, as amended, to the Senate with the understanding that Committee staff be permitted to make any technical corrections that may be necessary.

YEAS	NAYS	
X		Mr. Chafee
X		Mr. Grassley
X		Mr. Hatch
X		Mr. Murkowski
	P	Mr. Nickles
	X	Mr. Gramm of Texas
P		Mr. Lott
P		Mr. Jeffords
	P	Mr. Mack
		Mr. Thompson
X		Mr. Moynihan
X		Mr. Baucus
	X	Mr. Rockefeller
P		Mr. Breaux
P		Mr. Conrad
X		Mr. Graham of Florida

P		Mr. Bryan
P		Mr. Kerrey
X		Mr. Robb
X		Mr. Chairman
9	2	TOTAL

On June 17, 1999, during the Summers hearing, Senator Nickles asked unanimous consent to change his proxy from yea to nea. There being no objection, the request to change his vote was agreed to.

Note: Proxy votes do not factor in the final motion to report. [15 yeas 4 nays with proxies]

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