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108TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPT. 108–598 Part 1

# CUSTOMS BORDER SECURITY AND TRADE AGENCIES AUTHORIZATION ACT OF 2004

JULY 13, 2004.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. THOMAS, from the Committee on Ways and Means, submitted the following

## R E P O R T

together with

## ADDITIONAL VIEWS

[To accompany H.R. 4418]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 4418) to authorize appropriations for fiscal years 2005 and 2006 for the Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement of the Department of Homeland Security, for the Office of the United States Trade Representative, for the United States International Trade Commission, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Customs Border Security and Trade Agencies Authorization Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—BUREAU OF CUSTOMS AND BORDER PROTECTION AND BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT

Subtitle A—Authorization of appropriations; related provisions

Sec. 101. Authorization of appropriations.
Sec. 102. Establishment and implementation of cost accounting system; reports.
Sec. 103. Study and report relating to customs user fees.
Sec. 104. Report relating to One Face at the Border Initiative.

Subtitle B—Technical amendments relating to entry and protest

Sec. 111. Entry of merchandise.
Sec. 112. Limitation on liquidations.
Sec. 113. Protests.
Sec. 114. Review of protests.
Sec. 115. Refunds and errors.
Sec. 116. Definitions and miscellaneous provisions.
Sec. 117. Voluntary reliquidations.
Sec. 118. Effective date.

Subtitle C—Miscellaneous provisions

Sec. 121. Designation of San Antonio International Airport for Customs processing of certain private aircraft arriving in the United States.
Sec. 122. Authority for the establishment of Integrated Border Inspection Areas at the United States-Canada border.
Sec. 123. Designation of foreign law enforcement officers.
Sec. 124. Customs services.
Sec. 125. Sense of Congress on interpretation of textile and apparel provisions.
Sec. 126. Technical amendments.

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.

# TITLE I—BUREAU OF CUSTOMS AND BORDER PROTECTION AND BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT

## Subtitle A—Authorization of Appropriations; Related Provisions

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

(a) IN GENERAL.—Subsection (a) of section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075) is amended—

(1) in paragraph (1), to read as follows:

"(1) For the fiscal year beginning October 1, 2004, and each fiscal year thereafter, there are authorized to be appropriated to the Department of Homeland Security for the Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement only such sums as may hereafter be authorized by law.";

(2) by striking paragraph (2);

(3) by redesignating paragraph (3) as paragraph (2); and

(4) in paragraph (2) (as redesignated)—

(A) by inserting "and the Assistant Secretary for United States Immigration and Customs Enforcement, respectively," after "Commissioner of Customs"; and

(B) by striking "Customs Service" and inserting "Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement".

(b) SALARIES AND EXPENSES.—Subsection (b) of such section is amended to read as follows:

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) BUREAU OF CUSTOMS AND BORDER PROTECTION.—

"(A) There are authorized to be appropriated for the salaries and expenses of the Bureau of Customs and Border Protection not to exceed the following:

"(i) $6,203,000,000 for fiscal year 2005.

"(ii) $6,469,729,000 for fiscal year 2006.

"(B)(i) The monies authorized to be appropriated under subparagraph (A) with respect to customs revenue functions for any fiscal year, except for such sums as may be necessary for the salaries and expenses of the Bureau of Customs and Border Protection that are incurred in connection with the processing of merchandise that is exempt from the fees imposed under paragraphs (9) and (10) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)), shall be appropriated from the Customs User Fee Account.

"(ii) In clause (i), the term 'customs revenue function' means the following:

"(I) Assessing and collecting customs duties (including antidumping and countervailing duties and duties imposed under safeguard provisions), excise taxes, fees, and penalties due on imported merchandise, including classifying and valuing merchandise for the purposes of such assessment.

"(II) Processing and denial of entry of persons, baggage, cargo, and mail, with respect to the assessment and collection of import duties.

"(III) Detecting and apprehending persons engaged in fraudulent practices designed to circumvent the customs laws of the United States.

"(IV) Enforcing section 337 of the Tariff Act of 1930 and provisions relating to import quotas and the marking of imported merchandise, and providing Customs Recordations for copyrights, patents, and trademarks.

"(V) Collecting accurate import data for compilation of international trade statistics.

"(VI) Enforcing reciprocal trade agreements.

"(VII) Functions performed by the following personnel, and associated support staff, of the United States Customs Service prior to the establishment of the Bureau of Customs and Border Protection: Import Specialists, Entry Specialists, Drawback Specialists, National Import Specialists, Fines and Penalties Specialists, attorneys of the Office of Regulations and Rulings, Customs Auditors, International Trade Specialists, and Financial System Specialists.

"(VIII) Functions performed by the following offices, with respect to any function described in any of subclauses (I) through (VII), and associated support staff, of the United States Customs Service prior to the establishment of the Bureau of Customs and Border Protection: the Office of Information and Technology, the Office of Laboratory Services, the Office of the Chief Counsel, the Office of Congressional Affairs, the Office of International Affairs, and the Office of Training and Development.

"(2) BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT.—There are authorized to be appropriated for the salaries and expenses of the Bureau of Immigration and Customs Enforcement not to exceed the following:

"(A) $4,011,000,000 for fiscal year 2005.

"(B) $4,335,891,000 for fiscal year 2006.".

**SEC. 102. ESTABLISHMENT AND IMPLEMENTATION OF COST ACCOUNTING SYSTEM; REPORTS.**

Section 334 of the Customs and Border Security Act of 2002 (19 U.S.C. 2082 note) is amended to read as follows:

**"SEC. 334. ESTABLISHMENT AND IMPLEMENTATION OF COST ACCOUNTING SYSTEM; REPORTS.**

"(a) ESTABLISHMENT AND IMPLEMENTATION; CUSTOMS AND BORDER PROTECTION.—

"(1) IN GENERAL.—Not later than September 30, 2005, the Commissioner of Customs shall, in accordance with the audit of the Customs Service's fiscal years 2000 and 1999 financial statements (as contained in the report of the Office of Inspector General of the Department of the Treasury issued on February 23, 2001), establish and implement a cost accounting system—

"(A) for expenses incurred in both commercial and noncommercial operations of the Bureau of Customs and Border Protection of the Department of Homeland Security, which system should specifically identify and distinguish expenses incurred in commercial operations and expenses incurred in noncommercial operations; and

"(B) for expenses incurred both in administering and enforcing the customs laws of the United States and the Federal immigration laws, which system should specifically identify and distinguish expenses incurred in administering and enforcing the customs laws of the United States and the expenses incurred in administering and enforcing the Federal immigration laws.

"(2) ADDITIONAL REQUIREMENT.—The cost accounting system described in paragraph (1) shall provide for an identification of expenses based on the type of operation, the port at which the operation took place, the amount of time spent on the operation by personnel of the Bureau of Customs and Border Protection, and an identification of expenses based on any other appropriate classification necessary to provide for an accurate and complete accounting of expenses.

"(b) ESTABLISHMENT AND IMPLEMENTATION; IMMIGRATION AND CUSTOMS ENFORCEMENT.—

"(1) IN GENERAL.—Not later than September 30, 2005, the Assistant Secretary for United States Immigration and Customs Enforcement shall, in accordance with the audit of the Customs Service's fiscal years 2000 and 1999 financial statements (as contained in the report of the Office of Inspector General of the Department of the Treasury issued on February 23, 2001), establish and implement a cost accounting system—

"(A) for expenses incurred in both commercial and noncommercial operations of the Bureau of Immigration and Customs Enforcement of the Department of Homeland Security, which system should specifically identify and distinguish expenses incurred in commercial operations and expenses incurred in noncommercial operations;

"(B) for expenses incurred both in administering and enforcing the customs laws of the United States and the Federal immigration laws, which system should specifically identify and distinguish expenses incurred in administering and enforcing the customs laws of the United States and the expenses incurred in administering and enforcing the Federal immigration laws.

"(2) ADDITIONAL REQUIREMENT.—The cost accounting system described in paragraph (1) shall provide for an identification of expenses based on the type of operation, the amount of time spent on the operation by personnel of the Bureau of Immigration and Customs Enforcement, and an identification of expenses based on any other appropriate classification necessary to provide for an accurate and complete accounting of expenses.

"(c) REPORTS.—

"(1) DEVELOPMENT OF THE COST ACCOUNTING SYSTEMS.—Beginning on the date of the enactment of the Customs Border Security and Trade Agencies Authorization Act of 2004 and ending on the date on which the cost accounting systems described in subsections (a) and (b) are fully implemented, the Commissioner of Customs and the Assistant Secretary for United States Immigration and Customs Enforcement, respectively, shall prepare and submit to Congress on a quarterly basis a report on the progress of implementing the cost accounting systems pursuant to subsections (a) and (b).

"(2) ANNUAL REPORTS.—Beginning one year after the date on which the cost accounting systems described in subsections (a) and (b) are fully implemented, the Commissioner of Customs and the Assistant Secretary for United States Immigration and Customs Enforcement, respectively, shall prepare and submit to Congress on an annual basis a report itemizing the expenses identified in subsections (a) and (b).

"(3) OFFICE OF THE INSPECTOR GENERAL.—Not later than March 31, 2006, the Inspector General of the Department of Homeland Security shall prepare and submit to Congress a report analyzing the level of compliance with this section and detailing any additional steps that should be taken to improve compliance with this section.".

**SEC. 103. STUDY AND REPORT RELATING TO CUSTOMS USER FEES.**

(a) STUDY.—Beginning 180 days after the date on which the cost accounting systems described in section 334 of the Customs and Border Security Act of 2002 (as amended by section 102 of this Act) are fully implemented, the Comptroller General shall conduct a study on the extent to which the amount of each customs user fee imposed under section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)) approximates the cost of services provided by the Bureau of Customs and Border Protection of the Department of Homeland Security relating to the fee so imposed. The study shall include an analysis of the use of each such customs user fee by the Bureau of Customs and Border Protection.

(b) REPORT.—Not later than one year after the date on which the cost accounting systems described in section 334 of the Customs and Border Security Act of 2002 are fully implemented, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report in classified form containing—

(1) the results of the study conducted under subsection (a); and

(2) recommendations for the appropriate amount of the customs user fees if such results indicate that the fees are not commensurate with the level of services provided by the Bureau of Customs and Border Protection.

**SEC. 104. REPORT RELATING TO ONE FACE AT THE BORDER INITIATIVE.**

Not later than September 30 of each of the calendar years 2005 and 2006, the Commissioner of Customs shall prepare and submit to Congress a report—

(1) analyzing the effectiveness of the One Face at the Border Initiative at enhancing security and facilitating trade;

(2) providing a breakdown of the number of personnel of the Bureau of Customs and Border Protection that were personnel of the United States Customs Service prior to the establishment of the Department of Homeland Security, that were personnel of the Immigration and Naturalization Service prior to the establishment of the Department of Homeland Security, and that were hired after the establishment of the Department of Homeland Security;

(3) describing the training time provided to each employee on an annual basis for the various training components of the One Face at the Border Initiative; and

(4) outlining the steps taken by the Bureau of Customs and Border Protection to ensure that expertise is retained with respect to customs, immigration, and agriculture inspection functions under the One Face at the Border Initiative.

# Subtitle B—Technical Amendments Relating to Entry and Protest

**SEC. 111. ENTRY OF MERCHANDISE.**

(a) IN GENERAL.—Subsection (a) of section 484 of the Tariff Act of 1930 (19 U.S.C. 1484) is amended—

(1) in paragraph (1)(B), by inserting after "entry" the following: ", or substitute 1 or more reconfigured entries on an import activity summary statement,"; and

(2) in paragraph (2)(A)—

(A) in the second sentence, by inserting after "statements," the following: "and permit the filing of reconfigured entries,"; and

(B) by adding at the end the following: "Entries filed under paragraph (1)(A) shall not be liquidated if covered by an import activity summary statement, but instead each reconfigured entry in the import activity summary statement shall be subject to liquidation or reliquidation pursuant to section 500, 501, or 504.".

(b) RECONCILIATION.—Subsection (b)(1) of such section is amended in the fourth sentence by striking "15 months" and inserting "21 months".

**SEC. 112. LIMITATION ON LIQUIDATIONS.**

Section 504 of the Tariff Act of 1930 (19 U.S.C. 1504) is amended—

(1) in subsection (a)—

(A) by striking "or" at the end of paragraph (3);

(B) in paragraph (4), by striking "filed;" and inserting "filed, whichever is earlier; or"; and

(C) by inserting after paragraph (4) the following:

"(5) if a reconfigured entry is filed under an import activity summary statement, the date the import activity summary statement is filed or should have been filed, whichever is earlier;"; and

(2) by striking "at the time of entry" each place it appears.

**SEC. 113. PROTESTS.**

Section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "(relating to refunds and errors) of this Act" and inserting "(relating to refunds), any clerical error, mistake of fact, or other inadvertence, whether or not resulting from or contained in an electronic transmission, adverse to the importer, in any entry, liquidation, or reliquidation, and";

(B) in paragraph (5), by inserting ", including the liquidation of an entry, pursuant to either section 500 or section 504" after "thereof"; and

(C) in paragraph (7), by striking "(c) or"; and

(2) in subsection (c)—

(A) in paragraph (1), in the sixth sentence, by striking "A protest may be amended," and inserting "Unless a request for accelerated disposition is filed under section 515(b), a protest may be amended,"; and

(B) in paragraph (3)—

(i) in the matter preceding subparagraph (A), by striking "ninety days" and inserting "180 days";

(ii) in subparagraph (A), by striking "notice of" and inserting "date of"; and

(iii) in the second sentence, by striking "90 days" and inserting "180 days".

**SEC. 114. REVIEW OF PROTESTS.**

Section 515(b) of the Tariff Act of 1930 (19 U.S.C. 1515(b)) is amended in the first sentence by striking "after ninety days" and inserting "concurrent with or".

**SEC. 115. REFUNDS AND ERRORS.**

Section 520(c) of the Tariff Act of 1930 (19 U.S.C. 1520(c)) is repealed.

**SEC. 116. DEFINITIONS AND MISCELLANEOUS PROVISIONS.**

Section 401 of the Tariff Act of 1930 (19 U.S.C. 1401) is amended by adding at the end the following:

"(t) RECONFIGURED ENTRY.—The term 'reconfigured entry' means an entry filed on an import activity summary statement which substitutes for all or part of 1 or more entries filed under section 484(a)(1)(A) or filed on a reconciliation entry that aggregates the entry elements to be reconciled under section 484(b) for purposes of liquidation, reliquidation, or protest.".

**SEC. 117. VOLUNTARY RELIQUIDATIONS.**

Section 501 of the Tariff Act of 1930 (19 U.S.C. 1501) is amended in the first sentence by inserting "or 504" after "section 500".

**SEC. 118. EFFECTIVE DATE.**

The amendments made by this subtitle shall apply to merchandise entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

## Subtitle C—Miscellaneous Provisions

**SEC. 121. DESIGNATION OF SAN ANTONIO INTERNATIONAL AIRPORT FOR CUSTOMS PROCESSING OF CERTAIN PRIVATE AIRCRAFT ARRIVING IN THE UNITED STATES.**

(a) IN GENERAL.—Section 1453(a) of the Tariff Suspension and Trade Act of 2000 is amended by striking "2-year period" and inserting "6-year period".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as of November 9, 2002.

**SEC. 122. AUTHORITY FOR THE ESTABLISHMENT OF INTEGRATED BORDER INSPECTION AREAS AT THE UNITED STATES-CANADA BORDER.**

(a) FINDINGS.—Congress makes the following findings:

(1) The increased security and safety concerns that developed in the aftermath of the terrorist attacks in the United States on September 11, 2001, need to be addressed.

(2) One concern that has come to light is the vulnerability of the international bridges and tunnels along the United States borders.

(3) It is necessary to ensure that potentially dangerous vehicles are inspected prior to crossing these bridges and tunnels; however, currently these vehicles are not inspected until after they have crossed into the United States.

(4) Establishing Integrated Border Inspection Areas (IBIAs) would address these concerns by inspecting vehicles before they gained access to the infrastructure of international bridges and tunnels joining the United States and Canada.

(b) CREATION OF INTEGRATED BORDER INSPECTION AREAS.—

(1) IN GENERAL.—The Commissioner of the Customs Service, in consultation with the Canadian Customs and Revenue Agency (CCRA), shall seek to establish Integrated Border Inspection Areas (IBIAs), such as areas on either side of the United States-Canada border, in which United States Customs officers can inspect vehicles entering the United States from Canada before they enter the United States, or Canadian Customs officers can inspect vehicles entering Canada from the United States before they enter Canada. Such inspections may include, where appropriate, employment of reverse inspection techniques.

(2) ADDITIONAL REQUIREMENT.—The Commissioner of Customs, in consultation with the Administrator of the General Services Administration when appropriate, shall seek to carry out paragraph (1) in a manner that minimizes adverse impacts on the surrounding community.

(3) ELEMENTS OF THE PROGRAM.—Using the authority granted by this section and under section 629 of the Tariff Act of 1930, the Commissioner of Customs, in consultation with the Canadian Customs and Revenue Agency, shall seek to—

(A) locate Integrated Border Inspection Areas in areas with bridges or tunnels with high traffic volume, significant commercial activity, and that have experienced backups and delays since September 11, 2001;

(B) ensure that United States Customs officers stationed in any such IBIA on the Canadian side of the border are vested with the maximum authority to carry out their duties and enforce United States law;

(C) ensure that United States Customs officers stationed in any such IBIA on the Canadian side of the border shall possess the same immunity that they would possess if they were stationed in the United States; and

(D) encourage appropriate officials of the United States to enter into an agreement with Canada permitting Canadian Customs officers stationed in any such IBIA on the United States side of the border to enjoy such immunities as permitted in Canada.

**SEC. 123. DESIGNATION OF FOREIGN LAW ENFORCEMENT OFFICERS.**

(a) MISCELLANEOUS PROVISIONS.—Section 401(i) of the Tariff Act of 1930 (19 U.S.C. 1401(i)) is amended by inserting ", including foreign law enforcement officers," after "or other person".

(b) INSPECTIONS AND PRECLEARANCE IN FOREIGN COUNTRIES.—Section 629 of the Tariff Act of 1930 (19 U.S.C. 1629) is amended—

(1) in subsection (a), by inserting ", or subsequent to their exit from," after "prior to their arrival in";

(2) in subsection (c)—

(A) by inserting "or exportation" after "relating to the importation"; and

(B) by inserting "or exit" after "port of entry";

(3) by amending subsection (e) to read as follows:

"(e) STATIONING OF FOREIGN CUSTOMS AND AGRICULTURE INSPECTION OFFICERS IN THE UNITED STATES.—The Secretary of State, in coordination with the Secretary and the Secretary of Agriculture, may enter into agreements with any foreign country authorizing the stationing in the United States of customs and agriculture inspection officials of that country (if similar privileges are extended by that country to United States officials) for the purpose of insuring that persons and merchandise going directly to that country from the United States, or that have gone directly from that country to the United States, comply with the customs and other laws of that country governing the importation or exportation of merchandise. Any foreign customs or agriculture inspection official stationed in the United States under this subsection may exercise such functions, perform such duties, and enjoy such privileges and immunities as United States officials may be authorized to perform or are afforded in that foreign country by treaty, agreement, or law."; and

(4) by adding at the end the following:

"(g) PRIVILEGES AND IMMUNITIES.—Any person designated to perform the duties of an officer of the Customs Service pursuant to section 401(i) of this Act shall be entitled to the same privileges and immunities as an officer of the Customs Service with respect to any actions taken by the designated person in the performance of such duties.".

(c) CONFORMING AMENDMENT.—Section 127 of the Treasury Department Appropriations Act, 2003, is hereby repealed.

(d) EFFECTIVE DATE.—This section, and the amendments made by this section, take effect on the date of the enactment of this Act.

**SEC. 124. CUSTOMS SERVICES.**

Section 13031(e)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)(1) is amended—

(1) by striking "(1) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law (other than paragraph (2))," and inserting:

"(1) IN GENERAL.—

"(A) SCHEDULED FLIGHTS.—Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law (other than subparagraph (B) and paragraph (2)),"; and

(2) by adding at the end the following:

"(B) CHARTER FLIGHTS.—If a charter air carrier (as defined in section 40102(13) of title 49, United States Code) specifically requests that customs border patrol services for passengers and their baggage be provided for a charter flight arriving after normal operating hours at a customs border patrol serviced airport and overtime funds for those services are not available, the appropriate customs border patrol officer may assign sufficient customs employees (if available) to perform any such services, which could lawfully be performed during regular hours of operation, and any overtime fees incurred in connection with such service shall be paid by the charter air carrier.".

**SEC. 125. SENSE OF CONGRESS ON INTERPRETATION OF TEXTILE AND APPAREL PROVISIONS.**

It is the sense of Congress that the Bureau of Customs and Border Protection of the Department of Homeland Security should interpret, implement, and enforce the provisions of section 112 of the African Growth and Opportunity Act (19 U.S.C. 3721), section 204 of the Andean Trade Preference Act (19 U.S.C. 3203), and section 213 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703), relating to preferential treatment of textile and apparel articles, broadly in order to expand trade by maximizing opportunities for imports of such articles from eligible beneficiary countries.

**SEC. 126. TECHNICAL AMENDMENTS.**

(a) TARIFF ACT OF 1930.—Section 505(a) of the Tariff Act of 1930 is amended—

(1) in the first sentence—

(A) by inserting "referred to in this subsection" after "periodic payment"; and

(B) by striking "10 working days" and inserting "12 working days"; and

(2) in the second sentence, by striking "a participating" and all that follows through the end of the sentence and inserting the following: "the Secretary shall promulgate regulations, after testing the module, permitting a participating importer of record to deposit estimated duties and fees for entries of merchandise, other than merchandise entered for warehouse, transportation, or under bond, no later than the 15 working days following the month in which the merchandise is entered or released, whichever comes first.".

(b) CUSTOMS USER FEES.—(1) Section 13031(b)(9)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)(A)) is amended by striking "less than $2,000" and inserting "$2,000 or less".

(2) Section 13031(b)(9)(A)(ii) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)(A)(ii)) is amended to read as follows:

"(ii) Notwithstanding subsection (e)(6) and subject to the provisions of subparagraph (B), in the case of an express consignment carrier facility or centralized hub facility—

"(I) $.66 per individual airway bill or bill of lading; and

"(II) if the merchandise is formally entered, the fee provided for in subsection (a)(9), if applicable.".

(3) Section 13031(b)(9)(B) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)(B)) is amended—

(A) by moving the margins for subparagraph (B) 4 ems to the left; and

(B) in clause (ii), by striking "subparagraph (A)(ii)" and inserting "subparagraph (A)(ii) (I) or (II)".

(4) Section 13031(f)(1)(B) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(1)(B)) is amended by moving the subparagraph 2 ems to the left.

# TITLE II—OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

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

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Section 141(g)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)(A)) is amended by striking clauses (i) and (ii) and inserting the following:

"(i) $39,552,000 for fiscal year 2005.

"(ii) $39,552,000 for fiscal year 2006.".

(2) RULE OF CONSTRUCTION.—The amendment made by paragraph (1) shall not be construed to affect the availability of funds appropriated pursuant to section 141(g)(1)(A) of the Trade Act of 1974 before the date of the enactment of this Act.

(b) AUTHORIZATION OF APPROPRIATIONS FOR THE OFFICE OF THE GENERAL COUNSEL AND THE OFFICE OF MONITORING AND ENFORCEMENT.—There are authorized to be appropriated to the Office of the United States Trade Representative for the appointment of additional staff in the Office of the General Counsel and the Office of Monitoring and Enforcement—

(1) $2,000,000 for fiscal year 2005; and

(2) $2,000,000 for fiscal year 2006.

# TITLE III—UNITED STATES INTERNATIONAL TRADE COMMISSION

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

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 330(e)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)(A)) is amended by striking clauses (i) and (ii) and inserting the following:

"(i) $61,700,000 for fiscal year 2005.

"(ii) $65,278,000 for fiscal year 2006.".

(b) RULE OF CONSTRUCTION.—The amendment made by subsection (a) shall not be construed to affect the availability of funds appropriated pursuant to section 330(e)(2)(A) of the Tariff Act of 1930 before the date of the enactment of this Act.

## I. INTRODUCTION

### A. PURPOSE AND SUMMARY

H.R. 4418 would authorize funding for U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), the Office of the United States Trade Representative (USTR), and the United States International Trade Commission (ITC).

### B. BACKGROUND

#### 1. AUTHORIZATION OF APPROPRIATIONS

The Committee on Ways and Means has adopted a two-year authorization process to provide CBP, ICE, USTR, and the ITC with guidance as they plan their budgets and to provide Committee guidance in the appropriations process. In preparing H.R. 4418, the Committee considered the President's budget for FY 2005 and relied upon estimates of increases consistent with past practice as a guide for FY 2006. Funding for the former U.S. Customs Service, USTR, and the ITC was authorized through FY 2004 in the Trade Act of 2002 (P.L. 107–210).

## 2. REORGANIZATION OF THE U.S. CUSTOMS SERVICE IN THE DEPARTMENT OF HOMELAND SECURITY

On November 25, 2002, the President signed into law legislation (P.L. 107–296) creating a new Department of Homeland Security (DHS). This law transferred the U.S. Customs Service to the Department of Homeland Security under the authority of the Under Secretary for Border and Transportation Security. Authority for customs revenue functions is retained by the Secretary of the Treasury, administered by the Commissioner of U.S. Customs and Border Protection under the terms of a delegation of authority order.

On March 1, 2003, the former U.S. Customs Service was divided into two new agencies within DHS. Customs inspectors, canine enforcement officers, and import specialists were merged with immigration inspectors, border patrol agents, and agriculture inspectors to create CBP. Customs investigators and personnel in the air and marine operations were merged with immigration investigators, Federal air marshals, and members of the Federal protective service to create ICE.

The legislation transferring the U.S. Customs Service to DHS prohibits DHS from taking actions to "consolidate, discontinue, or diminish" customs revenue functions, "reduce the staffing level, or reduce the resources attributable to such functions." In the July 12, 2002 letter from the Committee on Ways and Means transmitting the views and recommendations of the Committee on the legislation establishing the new Department, the Committee noted, "It is also important to ensure that revenue continues to be collected and that goods keep moving across the border with little delay in order to maintain delicately balanced commercial schedules and operations."

## 3. CUSTOMS MODERNIZATION

The current customs automation system, the Automated Commercial System (ACS), is an aging system that has experienced several "brownouts." In August 2001, the systems integration contractor began work on the Automated Commercial Environment (ACE), a single integrated system that will replace ACS. Unlike ACS, ACE will use modern standards, processes, techniques, and language, and will be compatible with commercial software.

The first ACE participants were 41 initial importer accounts representing 17% of the total value of imports. CBP predicts that by the end of 2004, the number of ACE users will reach 20,000 and the number of ACE accounts will reach 1,100. While ACE is designed to be rolled out in eight phases over a period ending in September 2007, the program has faced both schedule and cost challenges.

In addition, CBP is in the process of integrating the International Trade Data System (ITDS) with ACE. ITDS was chartered in 1995 to facilitate information processing for businesses by accommodating the many federal agencies that need access to international trade data. Currently, traders are required to provide this information to each individual agency using a variety of different automated systems, a multitude of paper forms, or a combination of systems and forms. With ITDS, traders will submit standard

electronic data for imports or exports only once to ITDS. ITDS will distribute this standard data to the pertinent Federal agencies that have an interest in the transaction for their selectivity and risk assessment. ITDS will provide only that data necessary to an agency's mission. Agency participation in ITDS is voluntary, and many agencies have not yet chosen to participate, including the U.S. Coast Guard, the Transportation Security Administration, and the Office of Foreign Assets Control.

### 4. CUSTOMS USER FEES AND COST ACCOUNTING SYSTEMS

The Trade Act of 2002 requires the U.S. Customs Service to develop a cost accounting system to explain its expenditures effectively. Such a system would put customs operations in compliance with the core financial system requirements of the Joint Financial Management Improvement Program (JFMIP), a joint and cooperative undertaking of the U.S. Department of the Treasury, the General Accounting Office, the Office of Management and Budget, and the Office of Personnel Management to improve financial management practices in government. Prior to the imposition of this requirement, the Committee noted in its report to accompany H.R. 3129, the Customs Border Security Act of 2001, that "the Customs Service is currently unable to answer fundamental questions about how it spends money."

An effective cost accounting system is important to ensure that fees collected under the authority of paragraphs (1) through (8) of the Consolidated Omnibus Budget Reconciliation Act of 1985 are used only for their intended purpose. Section 413 of the legislation establishing DHS prohibits the use of these funds by any other agency or office of the Department. These fees are paid by commercial interests in return for specific commercial services. In the letter from the Committee on Ways and Means transmitting the views and recommendations of the Committee on the legislation establishing the new Department, the Committee noted, "It would be inappropriate and potentially inconsistent with the United States trade obligation for importers to pay fees that subsidize non-commercial functions of the new Department of Homeland Security. For these reasons, the Committee believes that fees should continue to be spent only on activities already defined in 19 U.S.C. 58c."

### 5. REQUIREMENTS TO POST BOND FOR IMPORTERS SUBJECT TO ANTIDUMPING DUTIES

Recently CBP indicated that it had been unable to collect over $100 million in antidumping duties owed on imports. Members of the Committee on Ways and Means expressed concerns about this inability to collect duties at the hearing, the mark up of the Subcommittee on Trade, and the Committee mark up.

CBP has recently provided the Committee with detailed information on the reforms that CBP will undertake to ensure that it will be able to collect duties owed in the future. First, CBP will rigorously enforce the requirement to post single entry bonds for each entry of goods subject to antidumping duties. Second, CBP will enhancing monitoring by requiring all bonds to be filed at one central location, which will improve the ability of CBP to ensure that importers are complying with their obligations to pay. Third, CBP will

amend its guidelines to raise the level of coverage of continuous bonds for importers of agriculture and aquaculture products subject to antidumping or countervailing duty cases so that exposure is minimized.

CBP also notes that the Commerce Department is increasingly requiring new shippers to post bonds at the higher "all others" rate faced by most importers rather than a zero rate. Finally, CBP notes that approximately half of the $100 million shortfall is due to the bankruptcy of a single large surety—representing an anomaly, not a systemic problem.

The Committee believes these steps are positive and, if implemented as promised, should enhance protection of the revenue. The Committee will continue to monitor this issue closely and actively.

### C. LEGISLATIVE HISTORY

On May 20, 2004, Congressman Philip M. Crane, (R–IL), Chairman of the Subcommittee on Trade of the Committee on Ways and Means, introduced H.R. 4418, the "Customs Border Security Act of 2004," a bill to authorize appropriations for fiscal years 2005 and 2006 for CBP, ICE, USTR, and the ITC, and for other purposes. Congressmen Rangel (D–NY), Shaw (R–FL), Levin (D–MI), and Ramstad (R–MN) cosponsored the legislation. On June 17, 2004, the Subcommittee on Trade held a public hearing on Customs budget authorizations and other customs issues. On June 22, 2004, Chairman Crane sent a letter to Commissioner of U.S. Customs and Border Protection Robert Bonner submitting questions for response and inclusion in the Subcommittee record, requesting responses by July 6, 2004. The Subcommittee has not received responses to these questions. On June 24, 2004, the Subcommittee on Trade held a formal mark up session and ordered favorably reported to the full committee H.R. 4418, the "Customs Border Security and Trade Agencies Authorization Act of 2004," as amended, by voice vote. On July 8, 2004, the Committee on Ways and Means held a formal mark up session on H.R. 4418, as amended by the Subcommittee. Chairman Thomas offered an amendment in the nature of a substitute, which was agreed to by voice vote. The Committee then ordered favorably reported H.R. 4418, as amended, by a roll call vote of 33 ayes to 0 nays.

## II. SECTION-BY-SECTION SUMMARY

*Sec. 1. Short title*

*Current law*

No provision.

*Explanation of provision*

Section 1 provides that the act may be cited as the "Customs Border Security and Trade Agencies Authorization Act of 2004."

*Reason for change*

The section identifies the short title for the bill.

# TITLE I—BUREAU OF CUSTOMS AND BORDER PROTECTION AND BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT

## Subtitle A—Authorization of Appropriations; Related Provisions

### *Sec. 101. Authorization of appropriations*

*Current law*

Section 301(b)(1) of the Customs Procedural and Simplification Act of 1978 (19 U.S.C. 2075(b)) provides the statutory basis for authorization of appropriations of the former U.S. Customs Service. The most recent authorization of appropriations for the U.S. Customs Service (under section 311 of the Trade Act of 2002) provided $1,365,456,000 for noncommercial operations, $1,642,602,000 for commercial operations, and $170,829,000 for air and marine interdiction for FY 2003, and $1,399,592,400 for noncommercial operations, $1,683,667,050 for commercial operations, and $175,099,725 for air and marine interdiction for FY 2004.

*Explanation of provision*

Section 101(a) would amend section 301 of the Customs Procedural Reform and Simplification Act of 1978 to make technical and conforming changes reflecting the division of the former U.S. Customs Service into CBP and ICE and its incorporation into DHS.

Section 101(b) would amend section 301 of the Customs Procedural Reform and Simplification Act of 1978 to authorize appropriations for salaries and expenses of CBP for fiscal year 2005 of $6,203,000,000 and for fiscal year 2006 of $6,469,729,000. It would require funds authorized for CBP with respect to customs revenue functions to be appropriated from the Customs User Fee Account. It would further authorize appropriations for salaries and expenses of ICE for fiscal year 2005 of $4,011,000,000 and for fiscal year 2006 of $4,335,891,000.

*Reason for change*

The incorporation of the former U.S. Customs Service into DHS and the subsequent division of the former U.S. Customs Service into CBP and ICE necessitated changes to the underlying statutory framework to reflect the new structure. The Committee notes that the information regarding the split between noncommercial and commercial operations provided in the past by the former U.S. Customs Service was not meaningful. The information was not the result of the collection of cost data on a continual basis. Rather, the Customs Service apportioned its budget through this artificial division based upon an outdated ad hoc survey performed years ago. The survey estimated a certain percentage of the Customs Service's activities that were commercial-related. Based upon that conclusion, the Customs Service merely multiplied its overall budget by that static percentage to arrive at its estimation from year to year. The Committee believes that this methodology is woefully inadequate because actual costs for various functions change from year to year. For this reason, the Committee required the Customs Service to develop an adequate cost accounting system in section 334 of the Trade Act of 2002 (P.L. 107–210). However, the Committee has received conflicting and inadequate information on whether the

successor agencies, CBP and ICE, have implemented such a cost accounting system. Accordingly, the Committee has addressed this issue again in section 102 of the legislation.

Funding authorized by this section is equal to the President's budget request for FY 2005 and provides an increase for FY 2006 that is equal to the percentage increase requested in FY 2005. These funding levels would provide adequate and appropriate resources for CBP and ICE to play their important security roles while still maintaining sufficient resources to support their critical trade facilitation functions.

*Sec. 102. Establishment and implementation of cost accounting system; reports.*

*Current law*

Section 334 of the Trade Act of 2002 required the former U.S. Customs Service to establish and implement a cost accounting system for expenses incurred in both commercial and noncommercial operations of the Customs Service, including an identification of expenses based on the type of operation, the port at which the operation took place, the amount of time spent on the operation by personnel of the Customs Service, and any other appropriate classification necessary to provide for an accurate and complete accounting of the expenses by September 30, 2003.

*Explanation of provision*

Section 102 would amend the requirement in section 334 of the Trade Act of 2002 to require CBP and ICE to establish by September 30, 2005, cost accounting systems that can distinguish between commercial and noncommercial operations, and expenses incurred in administering and enforcing the customs laws of the United States and the federal immigration laws. The section would further require the accounting systems to identify expenses based on the type of operation and the amount of time spent on the operation by personnel of the relevant agency. The section would also require reports: (1) by the Commissioner of Customs and the Assistant Secretary for United States Immigration and Customs Enforcement on a quarterly basis on the progress of implementing the cost accounting systems and on an annual basis itemizing the expenses once the accounting systems are in place; and (2) by the Inspector General of DHS not later than March 31, 2006, on the level of compliance with this section.

*Reason for change*

As discussed above, the previous methodology used by the Customs Service to estimate costs for commercial versus noncommercial operation has been unsatisfactory and inadequate. While current law required the Customs Service to establish and implement an adequate cost accounting system, the Committee is disappointed that it has received conflicting and inadequate information on whether CBP and ICE have in place a functioning cost accounting system that can provide the information required by law. Section 102 would reiterate the requirement originally imposed in the Trade Act of 2002, clarify that this requirement applies to both CBP and ICE, and require reports by the Inspector General to

monitor compliance by these agencies with the requirements of this section. The Committee intends to monitor progress closely.

*Sec. 103. Study and report relating to customs user fees*

*Current law*

No provision.

*Explanation of provision*

Section 103(a) would require the Comptroller General to conduct a study on the extent to which the amount of the customs user fees approximates the cost of services provided, beginning 180 days after the date on which the cost accounting systems described in Section 102 are fully implemented.

Section 103(b) would require the Comptroller General to report to the Committee on Ways and Means and the Committee on Finance within one year of the implementation of the cost accounting systems described in Section 102 on the results of the study required in Section 103(a) and any recommendations for the appropriate amount of customs user fees.

*Reason for change*

Section 336 of the Trade Act of 2002 required the Comptroller General to conduct a study on the extent to which the amount of the customs user fees approximates the cost of services provided. The Comptroller General released the required report in which he concluded that it was impossible to determine whether the amount of the fees approximated the costs of services provided because the Customs Service did not have an adequate cost accounting system in place to determine the costs of services provided. As noted above, the Committee is very concerned about the lack of such an accounting system. This section would require a follow-up report by the Comptroller General once the cost accounting system required by Section 102 is implemented.

*Sec. 104. Report relating to One Face at the Border Initiative*

*Current law*

No provision.

*Explanation of provision*

This section would require the Commissioner of Customs no later than September 30 of each of the calendar years 2005 and 2006 to submit a report to Congress analyzing the effectiveness of the One Face at the Border Initiative at enhancing security and facilitating trade, describing the training time provided to each employee under the Initiative, and outlining the steps taken by CBP to ensure that expertise is retained with respect to customs, immigration, and agriculture inspection functions.

*Reason for change*

Prior to the creation of CBP, customs, immigration, and agriculture inspections functions were performed by separate personnel from the U.S. Customs Service, the Immigration and Naturalization Service, and the U.S. Department of Agriculture. CBP has created a single officer, the CBP Officer, to perform all of these func-

tions. The first new CBP Officers were hired in late 2003, and legacy customs, immigration, and agriculture inspections officers are being cross-trained and converted to new CBP Officer positions. This provision would provide the Committee with information to determine whether sufficient training is provided in all three aspects to ensure that CBP Officers have the necessary expertise.

Subtitle B—Technical amendments relating to entry and protest

*Sections 111–118*

*Current law*

In the past, importers paid duties on each entry as the entry was processed. Under the recently implemented periodic payment system, CBP allows participating importers to pay off duties on a monthly basis.

*Explanation of provision*

Sections 111 through 118 are technical amendments dealing with reconfigured entries. The reconfigured entry process would allow importers to separate individual shipments from a larger entry if there are disputes about the individual shipments.

*Reason for change*

Allowing individual shipments to be separated from a larger entry paid on a periodic basis would facilitate trade by allowing undisputed shipments to be processed expeditiously.

Subtitle C—Miscellaneous Provisions

*Sec. 121. Designation of San Antonio International Airport for customs processing of certain private aircraft arriving in the United States*

*Current law*

Section 1453(a) of the Tariff Suspension and Trade Act of 2000 required the Commissioner of the Customs Service to designate the San Antonio International Airport as an airport in which private aircraft can land for processing by the Customs Service for a period of two years beginning with the date of enactment of that Act (November 9, 2000).

*Explanation of provision*

Section 121 would extend the designation of San Antonio International Airport for customs processing of private aircraft arriving in the United States for four years effective November 9, 2002.

*Reason for change*

The designation of the San Antonio International Airport lapsed on November 9, 2002, and this provision would extend that designation through November 9, 2006.

*Sec. 122. Authority for the establishment of Integrated Border Inspection Areas at the United States-Canada border*

*Current law*

Section 127 of the Treasury Department Appropriations Act of 2003 (P.L. 108–7) contains this provision.

*Explanation of provision*

Section 122 would require the Commissioner of Customs to seek to establish Integrated Border Inspection Areas on either side of the United States-Canada border in which U.S. Customs officers can inspect vehicles entering the United States from Canada before they enter the United States, or Canadian Customs officers can inspect vehicles entering Canada from the United States before they enter Canada.

*Reason for change*

The inclusion of this provision in the Treasury Appropriations Act of 2003 was a stopgap measure to authorize an important security program at a time when an appropriate authorizing bill was not available. This section would include this program in the appropriate authorizing legislation.

*Sec. 123. Designation of foreign law enforcement officers*

*Current law*

Section 127 of the Treasury Department Appropriations Act of 2003 (P.L. 108–7) contains this provision.

*Explanation of provision*

Section 123 would amend Section 401(i) of the Tariff Act of 1930 to provide for inspections and preclearance in foreign countries and to authorize the Secretary of State to enter into agreements with foreign countries for the stationing of foreign customs and agriculture inspection officers in the United States.

*Reason for change*

The inclusion of this provision in the Treasury Appropriations Act of 2003 was a stopgap measure to authorize an important security program at a time when an appropriate authorizing bill was not available. This section includes this program in the appropriate authorizing legislation.

*Sec. 124. Customs services*

*Current law*

No provision.

*Explanation of provision*

Section 124 amends section 13031(e)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 to permit CBP to provide services for charter air carriers for flights arriving after normal operating hours upon their request and at their expense.

*Reason for change*

Under current law, CBP is not authorized to provide services for charter air carriers for flights arriving under normal operating hours. This provision would permit CBP at its discretion to provide these services if appropriate and charge the cost of the provision of the services to the charter air carriers.

*Sec. 125. Sense of Congress on interpretation of textile and apparel provisions*

*Current law*

No provision.

*Explanation of provision*

Section 125 expresses the sense of Congress that CBP should interpret provisions of the African Growth and Opportunity Act (AGOA), the Andean Trade Preference Act (ATPA), and the Caribbean Basin Economic Recovery Act (CBERA) relating to preferential treatment of textile and apparel articles broadly in order to expand trade by maximizing opportunities for imports of such articles from eligible beneficiary countries.

*Reason for change*

The Committee has noted the frequent frustration of Congressional intent by CBP decisions implementing AGOA, ATPA, and CBERA. Congress has been forced to revisit many issues in the original AGOA legislation and reverse decisions by the Executive Branch that have denied benefits to imports that Congress fully intended to cover. This provision admonishes CBP to recognize the importance of interpreting the AGOA, ATPA, and CBERA laws in a trade-liberalizing manner.

*Sec. 126. Technical amendments*

*Current law*

Section 505(a) of the Tariff Act of 1930 requires importers to deposit estimated duties and fees on entries of merchandise within 10 working days of entry or release. Section 13031(b)(9)(A) of the Consolidated Budget Omnibus Reconciliation Act of 1985 restricts the ability to collect fees under the section to imports valued at "less than $2000." Section 13031(b)(9)(A)(ii) requires an express consignment carrier facility or centralized hub facility to reimburse the Customs Service for the cost of services provided by the Customs Service for the facility during the fiscal year.

*Explanation of provision*

Section 126(a) would amend section 505(a) of the Tariff Act of 1930 to increase the time period for importers to make periodic payments from 10 working days to 12 working days and would permit participating importers to deposit estimated duties and fees for entries of merchandise no later than 15 working days following the month in which the merchandise is entered or released, whichever comes first.

Section 126(b) would amend section 13031(b)(9)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 to change the

threshold for the merchandise processing fee from "less than $2,000" to "$2,000 or less" and to create a user fee for express courier facilities.

*Reason for change*

Both importers and CBP have requested the change from 10 working days to 12 working days as necessary for administrability of the periodic payment system. The change from "less than $2000" to "$2000 or less" is at the request of CBP to facilitate the administrability of the fee. The creation of the user fee for entries at express courier facilities makes the treatment of entries at those facilities more consistent with the treatment at other ports of entry.

## TITLE II—OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

*Sec. 201. Authorization of appropriations*

*Current law*

The statutory authority for budget authorization for USTR is section 141(g)(1) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)). The most recent authorization of appropriations for USTR was under section 361 of the Trade Act of 2002 (P.L. 107–210). Under 19 U.S.C. 2171, Congress has adopted a two-year authorization process to provide USTR with guidance as it plans its budget and to provide Committee guidance in the appropriation process.

*Explanation of provision*

This section would authorize appropriations for fiscal years 2005 and 2006 for the Office of the United States Trade Representative (USTR) of $39,552,000 per year. It would authorize an additional $2 million per year for the appointment of additional staff in the Office of the General Counsel and the Office of Monitoring and Enforcement of USTR.

*Reason for change*

The legislation would authorize the full amount of the President's budget request for USTR. It would further authorize an earmark of $2 million per year for the specific purpose of additional staff for the Office of General Counsel and the Office of Monitoring and Enforcement of USTR in light of the vital functions performed by these offices and their corresponding need for additional staff. The Committee believes that this earmark would provide sufficient funding for USTR to address a variety of needs that will best enable U.S. companies, farmers, and workers to benefit from the trade agreements to which the United States is party.

## TITLE III—UNITED STATES INTERNATIONAL TRADE COMMISSION

*Sec. 301. Authorization of appropriations*

*Current law*

The statutory authority for budget authorization for the ITC is section 330(e)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)(A)). The most recent authorization of appropriations for

the ITC was under section 371 of the Trade Act of 2002 (P.L. 107–210). Under 19 U.S.C. 1330, Congress has adopted a two-year authorization process to provide the ITC with guidance as it plans its budget and to provide Committee guidance in the appropriation process.

*Explanation of provision*

The provision would authorize appropriations for the ITC of $61,700,000 for fiscal year 2005 and $65,278,000 for fiscal year 2006.

*Reason for change*

The legislation authorizes the full amount of the ITC's budget request for fiscal year 2005. The Committee notes in particular that the ITC provides valuable advice as to the probable economic effects of U.S. trade agreements and miscellaneous tariff legislation considered by Congress.

## III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statements are made concerning the votes of the Committee on Ways and Means, in its consideration of the bill, H.R. 4418.

### A. Motion To Report the Bill

The bill, H.R. 4418, as amended, was ordered favorably reported by a rollcall vote of 33 yeas to 0 nays (with a quorum being present). The vote was as follows:

| Representatives | Yea | Nay | Present | Representative | Yea | Nay | Present |
|---|---|---|---|---|---|---|---|
| Mr. Thomas | X | | | Mr. Rangel | X | | |
| Mr. Crane | X | | | Mr. Stark | | | |
| Mr. Shaw | X | | | Mr. Matsui | | | |
| Mrs. Johnson | X | | | Mr. Levin | X | | |
| Mr. Houghton | X | | | Mr. Cardin | X | | |
| Mr. Herger | X | | | Mr. McDermott | | | |
| Mr. McCrery | X | | | Mr. Kleczka | | | |
| Mr. Camp | X | | | Mr. Lewis (GA) | X | | |
| Mr. Ramstad | X | | | Mr. Neal | X | | |
| Mr. Nussle | X | | | Mr. McNulty | | | |
| Mr. Johnson | X | | | Mr. Jefferson | X | | |
| Ms. Dunn | X | | | Mr. Tanner | X | | |
| Mr. Collins | | | | Mr. Becerra | X | | |
| Mr. Portman | X | | | Mr. Doggett | | | |
| Mr. English | X | | | Mr. Pomeroy | X | | |
| Mr. Hayworth | X | | | Mr. Sandlin | X | | |
| Mr. Weller | X | | | Ms. Tubbs Jones | X | | |
| Mr. Hulshof | | | | | | | |
| Mr. McInnis | X | | | | | | |
| Mr. Lewis (KY) | X | | | | | | |
| Mr. Foley | X | | | | | | |
| Mr. Brady | X | | | | | | |
| Mr. Ryan | X | | | | | | |
| Mr. Cantor | X | | | | | | |

### B. Votes on Amendments

A rollcall vote was conducted on the following amendment to the Chairman's amendment in the nature of a substitute.

An amendment by Mr. Levin, which would have provided that the responsibilities of the additional USTR staff appointed in the Chairman's amendment in the nature of a substitute shall include investigating, prosecuting, and defending cases before the World Trade Organization and trade agreements, administering U.S. trade laws, and monitoring compliance with the Uruguay Round Agreements and other trade agreements, particularly by China, was defeated by a rollcall vote of 11 yeas to 21 nays. The vote was as follows:

| Representatives | Yea | Nay | Present | Representative | Yea | Nay | Present |
|---|---|---|---|---|---|---|---|
| Mr. Thomas | | X | | Mr. Rangel | X | | |
| Mr. Crane | | X | | Mr. Stark | | | |
| Mr. Shaw | | X | | Mr. Matsui | | | |
| Mrs. Johnson | | X | | Mr. Levin | X | | |
| Mr. Houghton | | X | | Mr. Cardin | X | | |
| Mr. Herger | | X | | Mr. McDermott | | | |
| Mr. McCrery | | X | | Mr. Kleczka | | | |
| Mr. Camp | | X | | Mr. Lewis (GA) | X | | |
| Mr. Ramstad | | X | | Mr. Neal | X | | |
| Mr. Nussle | | X | | Mr. McNulty | | | |
| Mr. Johnson | | X | | Mr. Jefferson | X | | |
| Ms. Dunn | | X | | Mr. Tanner | X | | |
| Mr. Collins | | | | Mr. Becerra | X | | |
| Mr. Portman | | X | | Mr. Doggett | | | |
| Mr. English | | X | | Mr. Pomeroy | X | | |
| Mr. Hayworth | | X | | Mr. Sandlin | X | | |
| Mr. Weller | | X | | Ms. Tubbs Jones | X | | |
| Mr. Hulshof | | | | | | | |
| Mr. McInnis | | X | | | | | |
| Mr. Lewis (KY) | | X | | | | | |
| Mr. Foley | | X | | | | | |
| Mr. Brady | | X | | | | | |
| Mr. Ryan | | X | | | | | |
| Mr. Cantor | | | | | | | |

## IV. BUDGET EFFECTS OF THE BILL

### A. Committee Estimate of Budgetary Effects

In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of this bill, H.R. 4418 as amended and reported: The Committee agrees with the estimate prepared by the Congressional Budget Office (CBO), which is included below.

### B. Statement Regarding New Budget Authority and Tax Expenditures

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 4418 does not include any new budget authority or tax expenditures.

### C. Cost Estimate Prepared by the Congressional Budget Office

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the Congressional Budget Office, the following report by CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, July 12, 2004.*

Hon. WILLIAM "BILL" M. THOMAS,
*Chairman, Committee on Ways and Means,*
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4418, the Customs Border Security and Trade Agencies Authorization Act of 2004.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
*Director.*

Enclosure.

*H.R. 4418—Customs Border Security and Trade Agencies Authorization Act of 2004*

Summary: H.R. 4418 would authorize appropriations for 2005 and 2006 for the Bureau of Customs and Border Protection (CBP), the Bureau of Immigration and Customs Enforcement (ICE), the Office of the U.S. Trade Representative, and the International Trade Commission. The bill also would make many minor changes to the current laws relating to the entry of persons and goods into the United States.

CBO estimates that implementing H.R. 4418 would cost about $21 billion over the 2005–2009 period, assuming appropriation of the authorized amounts. All but $200 million of this total would be spending for CBP and ICE. Enacting the bill would have a very small effect on direct spending.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 4418 is shown in the following table. The costs of this legislation fall within budget functions 150 (international affairs), 750 (administration of justice), and 800 (general government). For this estimate, CBO assumes that the amounts authorized by the bill will be appropriated by the start of each fiscal year. We expect that CBP and ICE would spend those funds somewhat more slowly than the historical rates for these agencies because the bill would authorize substantial increases in funding over the amounts appropriated for 2004.

| | By fiscal year, in millions of dollars— | | | | | |
|---|---|---|---|---|---|---|
| | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 |
| SPENDING SUBJECT TO APPROPRIATION | | | | | | |
| Spending Under Current Law: | | | | | | |
| Budget Authority[1] | 7,360 | 0 | 0 | 0 | 0 | 0 |
| Estimated Outlays | 6,786 | 1,387 | 698 | 16 | 0 | 0 |
| Proposed Changes: | | | | | | |
| Authorization Level | 0 | 10,317 | 10,912 | 0 | 0 | 0 |
| Estimated Outlays | 0 | 7,244 | 9,712 | 3,191 | 1,081 | 0 |
| Spending Under H.R. 4418: | | | | | | |
| Authorization Level | 7,360 | 10,317 | 10,912 | 0 | 0 | 0 |

| | By fiscal year, in millions of dollars— | | | | | |
|---|---|---|---|---|---|---|
| | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 |
| Estimated Outlays | 6,786 | 8,631 | 10,410 | 3,207 | 1,081 | 0 |

[1] The 2004 level is the amount appropriated for that year for CBP, ICE, the Office of the United States Trade Representative, and the International Trade Commission.

H.R. 4418 would renew the designation of San Antonio International Airport as a site for customs processing of private aircraft. That provision could have a very small effect on collections of customs fees.

Intergovernmental and private-sector impact: H.R. 4418 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Spending: Mark Grabowicz; Impact on State, Local, and Tribal Governments: Melissa Merrell; and Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

## V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

### A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee, based on public hearing testimony and information from the Administration, conclude that it is appropriate and timely to consider the bill as reported.

### B. Statement of General Performance Goals and Objectives

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the Administration has in place program goals and objectives, which have been reviewed by the Committee. H.R. 4418 addresses several items by way of studies and reports for the purposes of evaluating with CBP and ICE are meeting their goals and objectives.

### C. Constitutional Authority Statement

With respect to clause (3)(d)(1) of rule XIII of the Rules of the House of Representatives, relating to Constitutional Authority, the Committee states that the Committee's action in reporting the bill is derived from Article I of the Constitution, Section 8 ("The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and to provide for * * * the general Welfare of the United States.")

### D. Information Relating to Unfunded Mandates

This information is provided in accordance with Section 423 of the Unfunded Mandates Reform Act of 1995 (P.L. 104–4).

The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments. The Committee has determined that the bill does not contain Federal mandates on the private sector.

## VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

## SECTION 301 OF THE CUSTOMS PROCEDURAL REFORM AND SIMPLIFICATION ACT OF 1978

SEC. 301. (a)[(1) For the fiscal year beginning October 1, 1979, and each fiscal year thereafter, there are authorized to be appropriated to the Department of the Treasury for the United States Customs Service only such sums as may hereafter be authorized by law.

[(2) The authorization of the appropriations for the United States Customs Service for each fiscal year after fiscal year 1987 shall specify—

[(A) the amount authorized for the fiscal year for the salaries and expenses of the Service in conducting commercial operations; and

[(B) the amount authorized for the fiscal year for the salaries and expenses of the Service for other than commercial operations.]

*(1) For the fiscal year beginning October 1, 2004, and each fiscal year thereafter, there are authorized to be appropriated to the Department of Homeland Security for the Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement only such sums as may hereafter be authorized by law.*

[(3)] *(2)* By not later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the Commissioner of Customs *and the Assistant Secretary for United States Immigration and Customs Enforcement, respectively,* shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the operations of the [Customs Service] *Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement* as provided for in subsection (b).

[(b) AUTHORIZATION OF APPROPRIATIONS.—

[(1) FOR NONCOMMERCIAL OPERATIONS.—There are authorized to be appropriated for the salaries and expenses of the Customs Service that are incurred in noncommercial operations not to exceed the following:

[(A) $1,365,456,000 for fiscal year 2003.

[(B) $1,399,592,400 for fiscal year 2004.

[(2) FOR COMMERCIAL OPERATIONS.—(A) There are authorized to be appropriated for the salaries and expenses of the Customs Service that are incurred in commercial operations not less than the following:

[(i) $1,642,602,000 for fiscal year 2003.

[(ii) $1,683,667,050 for fiscal year 2004.

[(B) The monies authorized to be appropriated under subparagraph (A) for any fiscal year, except for such sums as may

be necessary for the salaries and expenses of the Customs Service that are incurred in connection with the processing of merchandise that is exempt from the fees imposed under section 13031(a) (9) and (10) of the Consolidated Omnibus Budget Reconciliation Act of 1985, shall be appropriated from the Customs User Fee Account.

[(3) FOR AIR INTERDICTION.—There are authorized to be appropriated for the operation (including salaries and expenses) and maintenance of the air interdiction program of the Customs Service not to exceed the following:

[(A) $170,829,000 for fiscal year 2003.

[(B) $175,099,725 for fiscal year 2004.]

*(b) AUTHORIZATION OF APPROPRIATIONS.—*

*(1) BUREAU OF CUSTOMS AND BORDER PROTECTION.—*

*(A) There are authorized to be appropriated for the salaries and expenses of the Bureau of Customs and Border Protection not to exceed the following:*

*(i) $6,203,000,000 for fiscal year 2005.*

*(ii) $6,469,729,000 for fiscal year 2006.*

*(B)(i) The monies authorized to be appropriated under subparagraph (A) with respect to customs revenue functions for any fiscal year, except for such sums as may be necessary for the salaries and expenses of the Bureau of Customs and Border Protection that are incurred in connection with the processing of merchandise that is exempt from the fees imposed under paragraphs (9) and (10) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)), shall be appropriated from the Customs User Fee Account.*

*(ii) In clause (i), the term "customs revenue function" means the following:*

*(I) Assessing and collecting customs duties (including antidumping and countervailing duties and duties imposed under safeguard provisions), excise taxes, fees, and penalties due on imported merchandise, including classifying and valuing merchandise for the purposes of such assessment.*

*(II) Processing and denial of entry of persons, baggage, cargo, and mail, with respect to the assessment and collection of import duties.*

*(III) Detecting and apprehending persons engaged in fraudulent practices designed to circumvent the customs laws of the United States.*

*(IV) Enforcing section 337 of the Tariff Act of 1930 and provisions relating to import quotas and the marking of imported merchandise, and providing Customs Recordations for copyrights, patents, and trademarks.*

*(V) Collecting accurate import data for compilation of international trade statistics.*

*(VI) Enforcing reciprocal trade agreements.*

*(VII) Functions performed by the following personnel, and associated support staff, of the United States Customs Service prior to the establishment of the Bureau of Customs and Border Protection: Import Specialists, Entry Specialists, Drawback Specialists,*

*National Import Specialists, Fines and Penalties Specialists, attorneys of the Office of Regulations and Rulings, Customs Auditors, International Trade Specialists, and Financial System Specialists.*

*(VIII) Functions performed by the following offices, with respect to any function described in any of subclauses (I) through (VII), and associated support staff, of the United States Customs Service prior to the establishment of the Bureau of Customs and Border Protection: the Office of Information and Technology, the Office of Laboratory Services, the Office of the Chief Counsel, the Office of Congressional Affairs, the Office of International Affairs, and the Office of Training and Development.*

*(2) BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT.—There are authorized to be appropriated for the salaries and expenses of the Bureau of Immigration and Customs Enforcement not to exceed the following:*

*(A) $4,011,000,000 for fiscal year 2005.*

*(B) $4,335,891,000 for fiscal year 2006.*

* * * * * * *

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## SECTION 334 OF THE CUSTOMS AND BORDER SECURITY ACT OF 2002

**[SEC. 334. ESTABLISHMENT AND IMPLEMENTATION OF COST ACCOUNTING SYSTEM; REPORTS.**

[(a) ESTABLISHMENT AND IMPLEMENTATION.—

[(1) IN GENERAL.—Not later than September 30, 2003, the Commissioner of Customs shall, in accordance with the audit of the Customs Service's fiscal years 2000 and 1999 financial statements (as contained in the report of the Office of the Inspector General of the Department of the Treasury issued on February 23, 2001), establish and implement a cost accounting system for expenses incurred in both commercial and noncommercial operations of the Customs Service.

[(2) ADDITIONAL REQUIREMENT.—The cost accounting system described in paragraph (1) shall provide for an identification of expenses based on the type of operation, the port at which the operation took place, the amount of time spent on the operation by personnel of the Customs Service, and an identification of expenses based on any other appropriate classification necessary to provide for an accurate and complete accounting of the expenses.

[(b) REPORTS.—Beginning on the date of the enactment of this Act and ending on the date on which the cost accounting system described in subsection (a) is fully implemented, the Commissioner of Customs shall prepare and submit to Congress on a quarterly basis a report on the progress of implementing the cost accounting system pursuant to subsection (a).]

***SEC. 334. ESTABLISHMENT AND IMPLEMENTATION OF COST ACCOUNTING SYSTEM; REPORTS.***

*(a) ESTABLISHMENT AND IMPLEMENTATION; CUSTOMS AND BORDER PROTECTION.—*

*(1) IN GENERAL.—Not later than September 30, 2005, the Commissioner of Customs shall, in accordance with the audit of the Customs Service's fiscal years 2000 and 1999 financial statements (as contained in the report of the Office of Inspector General of the Department of the Treasury issued on February 23, 2001), establish and implement a cost accounting system—*

*(A) for expenses incurred in both commercial and noncommercial operations of the Bureau of Customs and Border Protection of the Department of Homeland Security, which system should specifically identify and distinguish expenses incurred in commercial operations and expenses incurred in noncommercial operations; and*

*(B) for expenses incurred both in administering and enforcing the customs laws of the United States and the Federal immigration laws, which system should specifically identify and distinguish expenses incurred in administering and enforcing the customs laws of the United States and the expenses incurred in administering and enforcing the Federal immigration laws.*

*(2) ADDITIONAL REQUIREMENT.—The cost accounting system described in paragraph (1) shall provide for an identification of expenses based on the type of operation, the port at which the operation took place, the amount of time spent on the operation by personnel of the Bureau of Customs and Border Protection, and an identification of expenses based on any other appropriate classification necessary to provide for an accurate and complete accounting of expenses.*

*(b) ESTABLISHMENT AND IMPLEMENTATION; IMMIGRATION AND CUSTOMS ENFORCEMENT.—*

*(1) IN GENERAL.—Not later than September 30, 2005, the Assistant Secretary for United States Immigration and Customs Enforcement shall, in accordance with the audit of the Customs Service's fiscal years 2000 and 1999 financial statements (as contained in the report of the Office of Inspector General of the Department of the Treasury issued on February 23, 2001), establish and implement a cost accounting system—*

*(A) for expenses incurred in both commercial and noncommercial operations of the Bureau of Immigration and Customs Enforcement of the Department of Homeland Security, which system should specifically identify and distinguish expenses incurred in commercial operations and expenses incurred in noncommercial operations;*

*(B) for expenses incurred both in administering and enforcing the customs laws of the United States and the Federal immigration laws, which system should specifically identify and distinguish expenses incurred in administering and enforcing the customs laws of the United States and the expenses incurred in administering and enforcing the Federal immigration laws.*

*(2) ADDITIONAL REQUIREMENT.—The cost accounting system described in paragraph (1) shall provide for an identification of expenses based on the type of operation, the amount of time spent on the operation by personnel of the Bureau of Immigration and Customs Enforcement, and an identification of ex-*

*penses based on any other appropriate classification necessary to provide for an accurate and complete accounting of expenses.*

*(c) REPORTS.—*

*(1) DEVELOPMENT OF THE COST ACCOUNTING SYSTEMS.—Beginning on the date of the enactment of the Customs Border Security and Trade Agencies Authorization Act of 2004 and ending on the date on which the cost accounting systems described in subsections (a) and (b) are fully implemented, the Commissioner of Customs and the Assistant Secretary for United States Immigration and Customs Enforcement, respectively, shall prepare and submit to Congress on a quarterly basis a report on the progress of implementing the cost accounting systems pursuant to subsections (a) and (b).*

*(2) ANNUAL REPORTS.—Beginning one year after the date on which the cost accounting systems described in subsections (a) and (b) are fully implemented, the Commissioner of Customs and the Assistant Secretary for United States Immigration and Customs Enforcement, respectively, shall prepare and submit to Congress on an annual basis a report itemizing the expenses identified in subsections (a) and (b).*

*(3) OFFICE OF THE INSPECTOR GENERAL.—Not later than March 31, 2006, the Inspector General of the Department of Homeland Security shall prepare and submit to Congress a report analyzing the level of compliance with this section and detailing any additional steps that should be taken to improve compliance with this section.*

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## TARIFF ACT OF 1930

* * * * * * *

# TITLE III—SPECIAL PROVISIONS

* * * * * * *

## Part II—United States Tariff Commission

**SEC. 330. ORGANIZATION OF THE COMMISSION.**

(a) * * *

* * * * * * *

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) * * *

(2)(A) There are authorized to be appropriated to the Commission for necessary expenses (including the rental of conference rooms in the District of Columbia and elsewhere) not to exceed the following:

[(i) $54,000,000 for fiscal year 2003.

[(ii) $57,240,000 for fiscal year 2004.]

*(i) $61,700,000 for fiscal year 2005.*

*(ii) $65,278,000 for fiscal year 2006.*

* * * * * * *

# TITLE IV—ADMINISTRATIVE PROVISIONS

## PART I—DEFINITIONS AND NATIONAL CUSTOMS AUTOMATION PROGRAM

### Subpart A—Definitions

**SEC. 401. MISCELLANEOUS.**

When used in this title or in Part I of Title III—

(a) * * *

* * * * * * *

(i) OFFICER OF THE CUSTOMS: CUSTOMS OFFICER.—The terms "officer of the customs" and "customs officer" mean any officer of the Bureau of Customs of the Treasury Department (also hereinafter referred to as the "Customs Service") or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person*, including foreign law enforcement officers,* authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.

* * * * * * *

*(t) RECONFIGURED ENTRY.—The term "reconfigured entry" means an entry filed on an import activity summary statement which substitutes for all or part of 1 or more entries filed under section 484(a)(1)(A) or filed on a reconciliation entry that aggregates the entry elements to be reconciled under section 484(b) for purposes of liquidation, reliquidation, or protest.*

* * * * * * *

### Part III—Ascertainment, Collection, and Recovery of Duties

* * * * * * *

**SEC. 484. ENTRY OF MERCHANDISE.**

(a) REQUIREMENT AND TIME.—

(1) Except as provided in sections 490, 498, 552, and 553, one of the parties qualifying as "importer of record" under paragraph (2)(B), either in person or by an agent authorized by the party in writing, shall, using reasonable care—

(A) * * *

(B) complete the entry*, or substitute 1 or more reconfigured entries on an import activity summary statement,* by filing with the Customs Service the declared value, classification and rate of duty applicable to the merchandise, and such other documentation or, pursuant to an electronic data interchange system, such other information as is necessary to enable the Customs Service to—

(i) * * *

* * * * * * *

(2)(A) The documentation or information required under paragraph (1) with respect to any imported merchandise shall be filed or transmitted in such manner and within such time periods as the Secretary shall by regulation prescribe. Such regulations shall provide for the filing of import activity summary statements, *and permit the filing of reconfigured entries,*

covering entries or warehouse withdrawals made during a calendar month, within such time period as is prescribed in regulations but not to exceed the 20th day following such calendar month. *Entries filed under paragraph (1)(A) shall not be liquidated if covered by an import activity summary statement, but instead each reconfigured entry in the import activity summary statement shall be subject to liquidation or reliquidation pursuant to section 500, 501, or 504.*

* * * * * * *

(b) RECONCILIATION.—

(1) IN GENERAL.—A party may elect to file a reconciliation with regard to such entry elements as are identified by the party pursuant to regulations prescribed by the Secretary. If the party so elects, the party shall declare that a reconciliation will be filed. The declaration shall be made in such manner as the Secretary shall prescribe and at the time the documentation or information required by subsection (a)(1)(B) or the import activity summary statement is filed with, or transmitted to, the Customs Service, or at such later time as the Customs Service may, in its discretion, permit. The reconciliation shall be filed by the importer of record at such time and in such manner as the Secretary prescribes but not later than [15 months] *21 months* after the date the importer declares his intent to file the reconciliation. In the case of reconciling issues relating to the assessment of antidumping and countervailing duties, the reconciliation shall be filed not later than 90 days after the date the Customs Service advises the importer that the period of review for antidumping or countervailing duty purposes has been completed. Before filing a reconciliation, an importer of record shall post bond or other security pursuant to such regulations as the Secretary may prescribe.

* * * * * * *

**SEC. 501. VOLUNTARY RELIQUIDATIONS BY THE CUSTOMS SERVICE.**

A liquidation made in accordance with section 500 *or 504* or any reliquidation thereof made in accordance with this section may be reliquidated in any respect by the Customs Service, notwithstanding the filing of a protest, within ninety days from the date on which notice of the original liquidation is given or transmitted to the importer, his consignee or agent. Notice of such reliquidation shall be given or transmitted in the manner prescribed with respect to original liquidations under section 500(e).

* * * * * * *

**SEC. 504. LIMITATION ON LIQUIDATION.**

(a) LIQUIDATION.—Unless an entry is extended under subsection (b) or suspended as required by statute or court order, except as provided in section 751(a)(3), an entry of merchandise not liquidated within one year from:

(1) * * *

* * * * * * *

(3) the date of withdrawal from warehouse of such merchandise for consumption where, pursuant to regulations issued

under section 505(a) of this Act, duties may be deposited after the filing of an entry or withdrawal from warehouse; [or]

(4) if a reconciliation is filed, or should have been filed, the date of the filing under section 484 or the date the reconciliation should have been [filed;] *filed, whichever is earlier; or*

*(5) if a reconfigured entry is filed under an import activity summary statement, the date the import activity summary statement is filed or should have been filed, whichever is earlier;*

shall be deemed liquidated at the rate of duty, value, quantity, and amount of duties asserted [at the time of entry] by the importer of record. Notwithstanding section 500(e) of this Act, notice of liquidation need not be given of an entry deemed liquidated.

(b) EXTENSION.—The Secretary may extend the period in which to liquidate an entry if—

(1) * * *

* * * * * * *

The Secretary shall give notice of an extension under this subsection to the importer of record and the surety of such importer of record. Notice shall be in such form and manner (which may include electronic transmittal) as the Secretary shall by regulation prescribe. Any entry the liquidation of which is extended under this subsection shall be treated as having been liquidated at the rate of duty, value, quantity, and amount of duty asserted [at the time of entry] by the importer of record at the expiration of 4 years from the applicable date specified in subsection (a).

* * * * * * *

(d) REMOVAL OF SUSPENSION.—Except as provided in section 751(a)(3), when a suspension required by statute or court order is removed, the Customs Service shall liquidate the entry, unless liquidation is extended under subsection (b), within 6 months after receiving notice of the removal from the Department of Commerce, other agency, or a court with jurisdiction over the entry. Any entry (other than an entry with respect to which liquidation has been extended under subsection (b)) not liquidated by the Customs Service within 6 months after receiving such notice shall be treated as having been liquidated at the rate of duty, value, quantity, and amount of duty asserted [at the time of entry] by the importer of record.

**SEC. 505. PAYMENT OF DUTIES AND FEES.**

(a) DEPOSIT OF ESTIMATED DUTIES AND FEES.—Unless the entry is subject to a periodic payment *referred to in this subsection* or the merchandise is entered for warehouse or transportation, or under bond, the importer of record shall deposit with the Customs Service at the time of entry, or at such later time as the Secretary may prescribe by regulation (but not later than [10 working days] *12 working days* after entry or release) the amount of duties and fees estimated to be payable on such merchandise. As soon as a periodic payment module of the Automated Commercial Environment is developed, but no later than October 1, 2004, [a participating importer of record, or the importer's filer, may deposit estimated duties and fees for entries of merchandise no later than the 15th day of the month following the month in which the merchandise is entered or released, whichever comes first.] *the Secretary shall pro-*

*mulgate regulations, after testing the module, permitting a participating importer of record to deposit estimated duties and fees for entries of merchandise, other than merchandise entered for warehouse, transportation, or under bond, no later than the 15 working days following the month in which the merchandise is entered or released, whichever comes first.*

* * * * * * *

**SEC. 514. PROTEST AGAINST DECISIONS OF THE CUSTOMS SERVICE.**

(a) FINALITY OF DECISIONS.—Except as provided in subsection (b) of this section, section 501 (relating to voluntary reliquidations), section 516 (relating to petitions by domestic interested parties), and section 520 [(relating to refunds and errors) of this Act] *(relating to refunds), any clerical error, mistake of fact, or other inadvertence, whether or not resulting from or contained in an electronic transmission, adverse to the importer, in any entry, liquidation, or reliquidation, and*, decisions of the Customs Service, including the legality of all orders and findings entering into the same, as to—

(1) * * *

* * * * * * *

(5) the liquidation or reliquidation of an entry, or reconciliation as to the issues contained therein, or any modification thereof*, including the liquidation of an entry, pursuant to either section 500 or section 504*;

* * * * * * *

(7) the refusal to reliquidate an entry under subsection [(c) or] (d) of section 520 of this act;

* * * * * * *

(c) PROTESTS.—

(1) IN GENERAL.—A protest of a decision made under subsection (a) shall be filed in writing, or transmitted electronically pursuant to an electronic data interchange system, in accordance with regulations prescribed by the Secretary. A protest must set forth distinctly and specifically—

(A) * * *

* * * * * * *

Only one protest may be filed for each entry of merchandise, except that where the entry covers merchandise of different categories, a separate protest may be filed for each category. In addition, separate protests may be filed for each category. In addition, separate protests filed by different authorized persons with respect to any one category of merchandise, or with respect to a determination of origin under section 202 of the North American Free Trade Agreement Implementation Act, that is the subject of a protest are deemed to be part of a single protest. [A protest may be amended,] *Unless a request for accelerated disposition is filed under section 515(b), a protest may be amended,* under regulations prescribed by the Secretary, to set forth objections as to a decision or decisions described in subsection (a) which were not the subject of the original protest, in the form and manner prescribed for a protest, any time prior to the expiration of the time in which such protest could have been filed under this section. New grounds

in support of objections raised by a valid protest or amendment thereto may be presented for consideration in connection with the review of such protest pursuant to section 515 of this Act at any time prior to the disposition of the protest in accordance with that section.

* * * * * * *

(3) TIME FOR FILING.—A protest of a decision, order, or finding described in subsection (a) shall be filed with the Customs Service within [ninety days] *180 days* after but not before—

(A) [notice of] *date of* liquidation or reliquidation, or

(B) in circumstances where subparagraph (A) is inapplicable, the date of the decision as to which protest is made.

A protest by a surety which has an unsatisfied legal claim under its bond may be filed within [90 days] *180 days* from the date of mailing of notice of demand for payment against its bond. If another party has not filed a timely protest, the surety's protest shall certify that it is not being filed collusively to extend another authorized person's time to protest as specified in this subsection.

* * * * * * *

SEC. 515. REVIEW OF PROTESTS.—

(a) * * *

(b) REQUEST FOR ACCELERATED DISPOSITION OF PROTEST.—A request for accelerated disposition of a protest filed in accordance with section 514 of this Act may be mailed by certified or registered mail to the appropriate customs officer any time [after ninety days] *concurrent with or* following the filing of such protest. For purposes of section 1581 of title 28 of the United States Code, a protest which has not been allowed or denied in whole or in part within thirty days following the date of mailing by certified or registered mail of a request for accelerated disposition shall be deemed denied on the thirtieth day following mailing of such request.

* * * * * * *

**SEC. 520. REFUNDS AND ERRORS.**

(a) * * *

* * * * * * *

[(c) Notwithstanding a valid protest was not filed, the Customs Service may, in accordance with regulations prescribed by the Secretary, reliquidate an entry or reconciliation to correct—

[(1) a clerical error, mistake of fact, or other inadvertence, whether or not resulting from or contained in electronic transmission, not amounting to an error in the construction of a law, adverse to the importer and manifest from the record or established by documentary evidence, in any entry, liquidation, or other customs transaction, when the error, mistake, or inadvertence is brought to the attention of the Customs Service within one year after the date of liquidation or exaction; or

[(2) any assessment of duty on household or personal effects in respect of which an application for refund has been filed, with such employee as the Secretary of the Treasury shall designate, within one year after the date of entry.]

* * * * * * *

**SEC. 629. INSPECTIONS AND PRECLEARANCE IN FOREIGN COUNTRIES.**

(a) IN GENERAL.—When authorized by treaty or executive agreement, the Secretary may station customs officers in foreign countries for the purpose of examining persons and merchandise prior to their arrival in*, or subsequent to their exit from,* the United States.

* * * * * * *

(c) COMPLIANCE.—The Secretary may by regulation require compliance with the customs laws of the United States in a foreign country and, in such a case the customs laws and other civil and criminal laws of the United States relating to the importation *or exportation* of merchandise, filing of false statements, and the unlawful removal of merchandise from customs custody shall apply in the same manner as if the foreign station is a port of entry *or exit* within the customs territory of the United States.

* * * * * * *

**[**(e) STATIONING OF FOREIGN CUSTOMS OFFICERS IN THE UNITED STATES.—The Secretary of State, in coordination with the Secretary, may enter into agreements with any foreign country authorizing the stationing in the United States of customs officials of that country (if similar privileges are extended by that country to United States officials) for the purpose of insuring that persons and merchandise going directly to that country from the United States comply with the customs and other laws of that country governing the importation of merchandise. Any foreign customs official stationed in the United States under this subsection may exercise such functions and perform such duties as United States officials may be authorized to perform in that foreign country under reciprocal agreement.**]**

*(e) STATIONING OF FOREIGN CUSTOMS AND AGRICULTURE INSPECTION OFFICERS IN THE UNITED STATES.—The Secretary of State, in coordination with the Secretary and the Secretary of Agriculture, may enter into agreements with any foreign country authorizing the stationing in the United States of customs and agriculture inspection officials of that country (if similar privileges are extended by that country to United States officials) for the purpose of insuring that persons and merchandise going directly to that country from the United States, or that have gone directly from that country to the United States, comply with the customs and other laws of that country governing the importation or exportation of merchandise. Any foreign customs or agriculture inspection official stationed in the United States under this subsection may exercise such functions, perform such duties, and enjoy such privileges and immunities as United States officials may be authorized to perform or are afforded in that foreign country by treaty, agreement, or law.*

* * * * * * *

*(g) PRIVILEGES AND IMMUNITIES.—Any person designated to perform the duties of an officer of the Customs Service pursuant to section 401(i) of this Act shall be entitled to the same privileges and immunities as an officer of the Customs Service with respect to any*

*actions taken by the designated person in the performance of such duties.*

* * * * * * *

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## SECTION 1453 OF THE TARIFF SUSPENSION AND TRADE ACT OF 2000

**SEC. 1453. DESIGNATION OF SAN ANTONIO INTERNATIONAL AIRPORT FOR CUSTOMS PROCESSING OF CERTAIN PRIVATE AIRCRAFT ARRIVING IN THE UNITED STATES.**

(a) DESIGNATION.—For the [2-year period] *6-year period* beginning on the date of the enactment of this Act, the Commissioner of the Customs Service shall designate the San Antonio International Airport in San Antonio, Texas, as an airport at which private aircraft described in subsection (b) may land for processing by the Customs Service in accordance with section 122.24(b) of title 19, Code of Federal Regulations.

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## SECTION 127 OF THE TREASURY DEPARTMENT APPROPRIATIONS ACT, 2003

[SEC. 127. AUTHORITY FOR THE CREATION OF INTEGRATED BORDER INSPECTION AREAS AND DESIGNATION OF FOREIGN LAW ENFORCEMENT OFFICERS. (a) CREATION OF INTEGRATED BORDER INSPECTION AREAS.—

[(1) The Commissioner of Customs, in consultation with the Canadian Customs and Revenue Agency (CCRA), shall seek to establish Integrated Border Inspection Areas (IBIAs), i.e., areas on either side of the United States-Canada border in which the United States Customs officers can inspect vehicles entering the United States from Canada before they enter the United States, or Canadian officers can inspect vehicles entering Canada from the United States before they enter Canada. This may include, where appropriate, employment of reverse inspection techniques.

[(2) The Commissioner of Customs, in consultation with the Administrator of the General Services Administration when appropriate, shall endeavor to carry out the IBIA program in a manner that minimizes adverse impacts on the surrounding community.

[(b) Section 1401(i) of title 19, United States Code, is amended by inserting ", including foreign law enforcement officers," after "or other person".

[(c) Section 1629 of title 19, United States Code, is amended—

[(1) in paragraph (a) by inserting ", or subsequent to their exit from," after "prior to their arrival in";

[(2) in paragraph (c) by inserting "or exportation" after "relating to the importation" and by inserting "or exit" after "port of entry";

[(3) in paragraph (e), by—

[(A) inserting "and agriculture inspection" after "customs" in each instance where reference is currently made

to "customs officers" or "customs officials" in this subsection;

[(B) inserting "and the Secretary of Agriculture" after "in coordination with the Secretary";

[(C) inserting "or that have gone directly from that country to the United States" after "to that country from the United States";

[(D) inserting "or exportation" after "governing the importation";

[(E) deleting "and" and inserting a comma (",") after "such functions";

[(F) inserting ", and enjoy such privileges and immunities" after "such duties";

[(G) inserting "or are afforded" after "authorized to perform"; and

[(H) deleting "under reciprocal agreement" and inserting "by treaty, agreement or law".

[(4) by adding at the end the following:

["(g) Persons designated to perform the duties of an officer of the Customs Service pursuant to section 1401(i) of this title shall be entitled to the same privileges and immunities as an officer of the Customs Service with respect to any actions taken by the designated person in the performance of such duties.".]

* * * * * * *

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## SECTION 13031 OF THE CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT OF 1985

**SEC. 13031. FEES FOR CERTAIN CUSTOMS SERVICES.**

(a) * * *

(b) LIMITATIONS ON FEES.—(1) * * *

* * * * * * *

(9)(A) With respect to the processing of letters, documents, records, shipments, merchandise, or any other item that is valued at an amount that is [less than $2,000] *$2,000 or less* (or such higher amount as the Secretary of the Treasury may set by regulation pursuant to section 498 of the Tariff Act of 1930), except such items entered for transportation and exportation or immediate exportation at a centralized hub facility, an express consignment carrier facility, or a small airport or other facility, the following reimbursements and payments are required:

(i) * * *

[(ii) Subject to the provisions of subparagraph (B), in the case of an express consignment carrier facility or centralized hub facility, $.66 per individual airway bill or bill of lading.]

*(ii) Notwithstanding subsection (e)(6) and subject to the provisions of subparagraph (B), in the case of an express consignment carrier facility or centralized hub facility—*

*(I) $.66 per individual airway bill or bill of lading; and*

*(II) if the merchandise is formally entered, the fee provided for in subsection (a)(9), if applicable.*

(B)(i) Beginning in fiscal year 2004, the Secretary of the Treasury may adjust (not more than once per fiscal year) the amount described in subparagraph (A)(ii) to an amount that is not less than $.35 and not more than $1.00 per individual airway bill or bill of lading. The Secretary shall provide notice in the Federal Register of a proposed adjustment under the preceding sentence and the reasons therefor and shall allow for public comment on the proposed adjustment.

(ii) Notwithstanding section 451 of the Tariff Act of 1930, the payment required by ⟦subparagraph (A)(ii)⟧ *subparagraph (A)(ii)(I) or (II)* shall be the only payment required for reimbursement of the Customs Service in connection with the processing of an individual airway bill or bill of lading in accordance with such subparagraph and for providing services at express consignment carrier facilities or centralized hub facilities, except that the Customs Service may require such facilities to cover expenses of the Customs Service for adequate office space, equipment, furnishings, supplies, and security.

(iii)(I) The payment required by subparagraph (A)(ii) and clause (ii) of this subparagraph shall be paid on a quarterly basis by the carrier using the facility to the Customs Service in accordance with regulations prescribed by the Secretary of the Treasury.

(II) 50 percent of the amount of payments received under subparagraph (A)(ii) and clause (ii) of this subparagraph shall, in accordance with section 524 of the Tariff Act of 1930, be deposited in the Customs User Fee Account and shall be used to directly reimburse each appropriation for the amount paid out of that appropriation for the costs incurred in providing services to express consignment carrier facilities or centralized hub facilities. Amounts deposited in accordance with the preceding sentence shall be available until expended for the provision of customs services to express consignment carrier facilities or centralized hub facilities.

(III) Notwithstanding section 524 of the Tariff Act of 1930, the remaining 50 percent of the amount of payments received under subparagraph (A)(ii) and clause (ii) of this subparagraph shall be paid to the Secretary of the Treasury, which is in lieu of the payment of fees under subsection (a)(10) of this section.

* * * * * * *

(e) PROVISION OF CUSTOMS SERVICES.—

⟦(1) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law (other than paragraph (2)),⟧

*(1) IN GENERAL.—*

*(A) SCHEDULED FLIGHTS.—Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law (other than subparagraph (B) and paragraph (2)),* the customs services required to be provided to passengers upon arrival in the United States shall be adequately provided in connection with scheduled airline flights at customs serviced airports when needed and at no cost (other than the fees imposed under subsection (a)) to airlines and airline passengers.

*(B) CHARTER FLIGHTS.—If a charter air carrier (as defined in section 40102(13) of title 49, United States Code) specifically requests that customs border patrol services for passengers and their baggage be provided for a charter flight arriving after normal operating hours at a customs border patrol serviced airport and overtime funds for those services are not available, the appropriate customs border patrol officer may assign sufficient customs employees (if available) to perform any such services, which could lawfully be performed during regular hours of operation, and any overtime fees incurred in connection with such service shall be paid by the charter air carrier.*

* * * * * * *

(f) DISPOSITION OF FEES.—(1) There is established in the general fund of the Treasury a separate account which shall be known as the "Customs User Fee Account". Notwithstanding section 524 of the Tariff Act of 1930 (19 U.S.C. 1524), there shall be deposited as offsetting receipts into the Customs User Fee Account all fees collected under subsection (a) except—

(A) * * *

(B) amounts deposited into the Customs Commercial and Homeland Security Automation Account under paragraph (5).

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## SECTION 141 OF THE TRADE ACT OF 1974

**SEC. 141. OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.**

(a) * * *

* * * * * * *

(g)(1)(A) There are authorized to be appropriated to the Office for the purposes of carrying out its functions the following:

[(i) $32,300,000 for fiscal year 2003.

[(ii) $33,108,000 for fiscal year 2004.]

*(i) $39,552,000 for fiscal year 2005.*

*(ii) $39,552,000 for fiscal year 2006.*

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## VII. COMMITTEE CORRESPONDENCE

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
*Washington, DC, July 13, 2004.*

Hon. F. JAMES SENSENBRENNER, Jr.,
*Chairman, Committee on the Judiciary,*
*Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN SENSENBRENNER: Thank you for your letter regarding H.R. 4418, the "Customs Border Security and Trade Agencies Authorization Act of 2004." The Committee on Ways and Means ordered favorably reported, as amended, H.R. 4418 on Thursday, July 8, 2004 by a 33–0 vote. I appreciate your agreement to expedite the passage of this legislation although it contains several immigration provisions that are within your Committee's jurisdiction. I acknowledge your decision to forego further action on the

bill is based on the understanding that it will not prejudice the Committee on the Judiciary with request to its jurisdictional prerogatives on this or similar legislation.

Our committees have long collaborated on these important initiatives, and I am very pleased we are continuing that cooperation. Your leadership on immigration issues is critical to the success of this bill. I appreciate your helping us to move legislation quickly to the floor.

Finally, I will include in both the Committee report and the Congressional Record a copy of our exchange of letters on this matter. Thank you for your assistance and cooperation. I look forward to working with you in the future.

Best regards,

BILL THOMAS,
*Chairman.*

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HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
*Washington, DC, July 13, 2004.*

Hon. BILL THOMAS,
*Chairman, Committee on Ways and Means,*
*House of Representatives, Washington, DC.*

DEAR CHAIRMAN THOMAS: In recognition of the desire to expedite floor consideration of H.R. 4418, the "Customs Border Security Act of 2004," the Committee on the Judiciary hereby waives consideration of the bill.

Certain sections of H.R. 4418 contain matters within the Committee on the Judiciary's Rule X jurisdiction: Section 101 (insofar as it authorizes funding for immigration matters); Section 102 (insofar as it requires cost accounting systems for immigration matters); and Section 122 (insofar as the Integrated Border Inspection Areas include immigration matters). Because of the need to expedite this legislation, I will not seek to mark up the bill under the Committee on the Judiciary's secondary referral.

The Committee on the Judiciary takes this action with the understanding that the Committee's jurisdiction over these provisions is in no way diminished or altered. I would appreciate your including this letter in your Committee's report on H.R. 4418 and the Congressional Record during consideration of the legislation on the House floor.

Sincerely,

F. JAMES SESENBRENNER, Jr.,
*Chairman.*

## VIII. VIEWS

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### ADDITIONAL VIEWS

Earlier this year, the Customs and Border Protection Agency admitted that it had failed to collect more than $130 million in duties owed on imports, largely from China. An investigation showed that one reason for this $130 million problem was a loophole applicable to so-called "New Shippers" of goods subject to antidumping (AD) and contervailing (CVD) duties. There are variations on this loophole, but basically, one version of the loophole allows these "New Shippers" to post bonds for the unfair trade duties they owe, rather than paying the estimated amount owed. Established importers do not enjoy this benefit of being able to post bonds for pennies on the dollar, but must pay the estimated duties.

In what appeared to be a pattern, importers failed to pay the full amount of duties, leaving CBP with recourse to the bonds. To the extend that the bonds were collectible, they were insufficient to cover the full amount of the duties owed. In other cases, CBP was unable to collect on the bonds. This problem contributed to CBP's failure to collect more than $130 million worth of duties owed; America's fair trade laws were flouted and the U.S. Treasury was deprived of a substantial amount of revenues that it was due. A large number of the importers taking advantage of the loophole were importing products from China; in some cases, it appears that Chinese firms subject to AD/CVD duties set up shell companies to take advantage of the "New Shipper" process. In a related problem, it appears that CBP has been unable in a number of cases to collect the full amount of a duty owed, even when "New Shippers" were not involved and cash deposits were paid.

These failures reflect poorly on CBP. It has repeatedly, and in a variety of contexts and circumstances, failed to ensure that U.S. trade laws are enforced as provided by law. These serious and repeated failures have denied American workers, farmers and businesses benefits to which they are entitled under U.S. law. These lapses involve failure to follow procedures established under U.S. law and failure to utilize due diligence in enforcing the U.S. law.

In response to Congressional inquiries and criticisms, CBP recently proposed a series of reforms to address aspects of these problems. We have serious concerns not only about CBP's ability to implement the proposed reforms, but also with whether the reforms would in fact eliminate the problems. We believe that a more comprehensive approach involving changes to current U.S. law is necessary. Steps that we recommend taking include ending the special treatment allowed for "New Shippers." In particular, "New Shippers" should be treated like other importers—they would have to

pay estimated duties with each entry, and would not be allowed to post bonds.

This step would be fully consistent with our international obligations, which authorize the United States to "request guarantees to ensure that . . . duties can be levied retroactively to the date of the initiation of the review." Clearly, the "guarantees" in the form of bonds have not ensured that the duties could be levied as provided in Article 9.5 of the Antidumping Agreement of the World Trade Organization. To do so requires collecting cash deposits. We would be prepared to consider other alternatives, including a more reliable bonding requirement, at some future date, were it to be proposed by CBP, and were it to ensure the ability of the United States to levy duties retroactively to the date of the initiation of the review.

In addition, we believe that the requirement that importers of goods subject to antidumping or countervailing duty actions post continuous bonds with a higher level of coverage should be statutorily mandated—and not left to CBP's discretion. CBP's record in implementing laws that allow for discretion has not always been consistent with Congress' expectations in the past, underscoring the need for Congress to provide exact and specific direction.

We will continue to raise this issue as the legislation moves forward. We are supportive of the authorizations for these agencies, and of other provisions in the legislation. That said, the failure to enforce U.S. trade laws is a serious one, and one that deserves action from this House.

*Office of the U.S. Trade Representative*

Section 201 of the H.R. 4418 authorizes appropriations for USTR for FY2005 and FY2006 at $41.5 million per year. This amount is $2 million over the Administration's budget request.

We believe that additional direction should have been included to ensure that some portion of this additional $2 million is used to ensure our trading partners are living up to their international trade obligations. The current legislation does not require this outcome. Instead, as this bill is currently drafted, the additional $2 million can be used entirely for free trade agreement negotiations, administering U.S. trade preference programs (like AGOA, CBI and ATPA), and coordinating inter-agency trade policy.

During the Full Committee markup, Congressman Levin offered an amendment that directed USTR to use some part of the additional $2 million for staff to, among other activities, investigate, prosecute, and defend cases before the World Trade Organization and under trade agreements to which the United States is a party, and to address foreign government barriers to United States goods and services, particularly with respect to the People's Republic of China. The amendment was rejected on a straight party line vote.

The decision by the Republican Members of the Committee to reject the amendment is unfortunate. In 2003, the goods trade deficit set a record high of $549.4 billion. We are losing ground even areas, like advanced technology products, where the United States has dominated. In 2003, our deficit in advanced technology products climbed 65 percent, and total goods exports were down $58

million from 2000. Unfortunately, the trade deficit is on track once again this year to set a new record.

We will continue to work for inclusion of specific direction to USTR on this issue, so that USTR starts producing results for American workers, farmers and businesses.

*Compilation of Additional Views*

Democratic Members of the Committee were provided only a half working day to respond to the Committee views, which, without prior notice, contained comments on a number of tangential points. Further, the Majority provided the Democratic Members of the Committee with notice at approximately 6:45 in the evening that this legislation would come to the Floor the next day under the Suspensions Calendar. As a consequence, many of the Democratic Members of the Committee have been deprived of the opportunity to review, consider and sign these Additional Views. We hope that in the future more adequate notice can be provided so that the Majority and Minority can work more collaboratively whenever possible.

CHARLES B. RANGEL.
JIM MCDERMOTT.
STEPHANIE TUBBS JONES.
ROBERT T. MATSUI.
SANDER LEVIN.
XAVIER BECERRA.
EARL POMEROY.

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