

PROPOSED AMENDMENTS TO H.R. 5005

(Recommended to the Select Committee on Homeland Security by the Committee on Ways and Means)

Page 21, after line 4, insert the following (and conform the table of contents accordingly):

1 **Subtitle A—General Provisions**

Page 22, line 1, insert after “(4)” the following: “except as provided in subtitle B,”.

Page 22, strike lines 10 through 12 and insert the following:

2 (1) the United States Customs Service, except
3 as provided in subtitle B;”.

4 Page 24, after line 6, add the following (and conform
5 the table of contents accordingly):

6 **Subtitle B—United States Customs** 7 **Service**

8 **SEC. 411. ESTABLISHMENT; COMMISSIONER OF CUSTOMS.**

9 (a) ESTABLISHMENT.—There is established in the
10 Department the United States Customs Service, under the
11 authority of the Under Secretary for Border and Trans-
12 portation Security, which shall be vested with those func-
13 tions set forth in section 420(7), and the personnel, assets,
14 and liabilities attributable to those functions.

15 (b) COMMISSIONER OF CUSTOMS.—



1 (1) IN GENERAL.—There shall be at the head
2 of the Customs Service a Commissioner of Customs,
3 who shall be appointed by the President, by and
4 with the advice and consent of the Senate.

5 (2) COMPENSATION.—Section 5314 of title 5,
6 United States Code, is amended by striking

7 “Commissioner of Customs, Department of the
8 Treasury”

9 and inserting

10 “Commissioner of Customs, Department of
11 Homeland Security.”.

12 (3) CONTINUATION IN OFFICE.—The individual
13 serving as the Commissioner of Customs on the day
14 before the effective date of this Act may serve as the
15 Commissioner of Customs on and after such effec-
16 tive date until a Commissioner of Customs is ap-
17 pointed under paragraph (1).

18 **SEC. 412. RETENTION OF CUSTOMS REVENUE FUNCTIONS**

19 **BY SECRETARY OF THE TREASURY.**

20 (a) RETENTION BY SECRETARY OF THE TREAS-
21 URY.—

22 (1) RETENTION OF AUTHORITY.—Notwith-
23 standing sections 401(4), 402(1), and 803(e)(2), au-
24 thority that was vested in the Secretary of the
25 Treasury by law before the effective date of this Act



1 under those provisions of law set forth in paragraph
2 (2) shall not be transferred to the Secretary by rea-
3 son of this Act, and on and after the effective date
4 of this Act, the Secretary of the Treasury may dele-
5 gate any such authority to the Secretary at the dis-
6 cretion of the Secretary of the Treasury. The Sec-
7 retary of the Treasury shall consult with the Sec-
8 retary regarding the exercise of any such authority
9 not delegated to the Secretary.

10 (2) STATUTES.—The provisions of law referred
11 to in paragraph (1) are the following: the Tariff Act
12 of 1930; section 249 of the Revised Statutes of the
13 United States (19 U.S.C. 3); section 2 of the Act of
14 March 4, 1923 (19 U.S.C. 6); section 13031 of the
15 Consolidated Omnibus Budget Reconciliation Act of
16 1985 (19 U.S.C. 58c); section 251 of the Revised
17 Statutes of the United States (19 U.S.C. 66); sec-
18 tion 1 of the Act of June 26, 1930 (19 U.S.C. 68);
19 the Foreign Trade Zones Act (19 U.S.C. 81a et
20 seq.); section 1 of the Act of March 2, 1911 (19
21 U.S.C. 198); the Trade Act of 1974; the Trade
22 Agreements Act of 1979; the North American Free
23 Trade Area Implementation Act; the Uruguay
24 Round Agreements Act; the Caribbean Basin Eco-
25 nomic Recovery Act; the Andean Trade Preference



1 Act; the African Growth and Opportunity Act; and
2 any other provision of law vesting customs revenue
3 functions in the Secretary of the Treasury.

4 (b) MAINTENANCE OF CUSTOMS REVENUE FUNC-
5 TIONS.—

6 (1) MAINTENANCE OF FUNCTIONS.—Notwith-
7 standing section 733, the Secretary may not consoli-
8 date, alter, discontinue, or diminish those functions
9 described in paragraph (2) performed by the United
10 States Customs Service (as established under section
11 411) on or after the effective date of this Act, re-
12 duce the staffing level, or the compensation or bene-
13 fits under title 5, United States Code, of personnel
14 attributable to such functions, or reduce the re-
15 sources attributable to such functions, and the Sec-
16 retary shall ensure that an appropriate management
17 structure is implemented to carry out such func-
18 tions.

19 (2) FUNCTIONS.—The functions referred to in
20 paragraph (1) are those functions performed by the
21 following personnel, and associated support staff, of
22 the United States Customs Service on the day before
23 the effective date of this Act: Import Specialists,
24 Entry Specialists, Drawback Specialists, National
25 Import Specialist, Fines and Penalties Specialists,



1 attorneys of the Office of Regulations and Rulings,
2 Customs Auditors, International Trade Specialists,
3 Financial Systems Specialists.

4 (c) NEW PERSONNEL.—The Secretary of the Treas-
5 ury is authorized to appoint up to 20 new personnel to
6 work with personnel of the Department in performing cus-
7 toms revenue functions.

8 **SEC. 413. ALLOCATION OF RESOURCES BY THE SECRETARY.**

9 (a) IN GENERAL.—The Secretary shall ensure that
10 adequate staffing is provided to assure that levels of cus-
11 toms revenue services provided on the day before the effec-
12 tive date of this Act shall continue to be provided.

13 (b) NOTIFICATION OF CONGRESS.—The Secretary
14 shall notify the Committee on Ways and Means of the
15 House of Representatives and the Committee on Finance
16 of the Senate at least 180 days prior to taking any action
17 which would—

18 (1) result in any significant reduction in cus-
19 toms revenue services, including hours of operation,
20 provided at any office within the Department or any
21 port of entry;

22 (2) eliminate or relocate any office of the De-
23 partment which provides customs revenue services;
24 or

25 (3) eliminate any port of entry.



1 (c) DEFINITION.—In this section, the term “customs
2 revenue services” means those customs revenue functions
3 described in paragraphs (1) through (6) and (8) of section
4 420.

5 **SEC. 414. ESTABLISHMENT AND IMPLEMENTATION OF**
6 **COST ACCOUNTING SYSTEM; REPORTS.**

7 (a) ESTABLISHMENT AND IMPLEMENTATION.—

8 (1) IN GENERAL.—Not later than September
9 30, 2003, the Commissioner of Customs shall, in ac-
10 cordance with the audit of the Customs Service’s fis-
11 cal years 2000 and 1999 financial statements (as
12 contained in the report of the Office of the Inspector
13 General of the Department of the Treasury issued
14 on February 23, 2001), establish and implement a
15 cost accounting system for expenses incurred in the
16 operation of the Customs Service.

17 (2) ADDITIONAL REQUIREMENT.—The cost ac-
18 counting system described in paragraph (1) shall
19 provide for an identification of expenses based on
20 the type of operation, the port at which the oper-
21 ation took place, the amount of time spent on the
22 operation by personnel of the Customs Service, and
23 an identification of expenses based on any other ap-
24 propriate classification necessary to provide for an
25 accurate and complete accounting of the expenses.



1 (3) USE OF MERCHANDISE PROCESSING
2 FEES.—The cost accounting system described in
3 paragraph (1) shall provide for an identification of
4 all amounts expended pursuant to section
5 13031(f)(2) of the Consolidated Omnibus Reconcili-
6 ation Act of 1985.

7 (b) REPORTS.—Beginning on the date of the enact-
8 ment of this Act and ending on the date on which the
9 cost accounting system described in subsection (a) is fully
10 implemented, the Commissioner of Customs shall prepare
11 and submit to the Committee on Ways and Means of the
12 House of Representatives and the Committee on Finance
13 of the Senate on a quarterly basis a report on the progress
14 of implementing the cost accounting system pursuant to
15 subsection (a).

16 **SEC. 415. PRESERVATION OF CUSTOMS FUNDS.**

17 Notwithstanding section 733(b), no funds available to
18 the United States Customs Service or collected under
19 paragraphs (1) through (8) of section 13031(a) of the
20 Consolidated Omnibus Reconciliation Act of 1985 may be
21 transferred for use by any other agency or office in the
22 Department.

23 **SEC. 416. REPORTS TO CONGRESS.**

24 The United States Customs Service shall, on and
25 after the effective date of this Act, continue to submit to



1 the Committee on Ways and Means of the House of Rep-
2 resentatives and the Committee on Finance of the Senate
3 any report required, on the day before such the effective
4 date of this Act, to be so submitted under any provision
5 of law.

6 **SEC. 417. CUSTOMS USER FEES.**

7 Section 13031(f) of the Consolidated Omnibus Budg-
8 et Reconciliation Act of 1985 (19 U.S.C. 58c(f)) is
9 amended—

10 (1) in paragraph (1), by striking subparagraph
11 (B) and inserting the following:

12 “(B) amounts deposited into the Customs Com-
13 mercial Automation Account under paragraph (5).”;

14 (2) in paragraph (4), by striking “(other than
15 the excess fees determined by the Secretary under
16 paragraph (5))”; and

17 (3) by striking paragraph (5) and inserting the
18 following:

19 “(5)(A) There is created within the general fund of
20 the Treasury a separate account that shall be known as
21 the ‘Customs Commercial Automation Account’. In each
22 of fiscal years 2003, 2004, and 2005 there shall be depos-
23 ited into the Customs Commercial Automation Account
24 from fees collected under subsection (a)(9)(A),
25 \$350,000,000.



1 “(B) There is authorized to be appropriated from the
2 Customs Commercial Automation Account in fiscal years
3 2003 through 2005 such amounts as are available in that
4 Account for the development, establishment, and imple-
5 mentation of the Automated Commercial Environment
6 computer system for the processing of merchandise that
7 is entered or released. Amounts appropriated pursuant to
8 this subparagraph are authorized to remain available until
9 expended.

10 “(C) In adjusting the fee imposed by subsection
11 (a)(9)(A) for fiscal year 2006, the Secretary of the Treas-
12 ury shall reduce the amount estimated to be collected in
13 fiscal year 2006 by the amount by which total fees depos-
14 ited to the Customs Commercial Automation Account dur-
15 ing fiscal years 2003, 2004, and 2005 exceed total appro-
16 priations from that Account.”.

17 **SEC. 418. SEPARATE BUDGET REQUEST FOR CUSTOMS.**

18 The President shall include in each budget trans-
19 mitted to the Congress under section 1105 of title 31,
20 United States Code, a separate budget request for the
21 United States Customs Service.

22 **SEC. 419. PAYMENT OF DUTIES AND FEES.**

23 Section 505(a) of the Tariff Act of 1930 (19 U.S.C.
24 1505(a)) is amended—

25 (1) in the first sentence—



1 (A) by striking “Unless the merchandise”
2 and inserting “Unless the entry of merchandise
3 is covered by an import activity summary state-
4 ment, or the merchandise”; and

5 (B) by inserting after “by regulation” the
6 following: “(but not to exceed 10 working days
7 after entry or release, whichever occurs first)”;
8 and

9 (2) by striking the second and third sentences
10 and inserting the following: “If an import activity
11 summary statement is filed, the importer or record
12 shall deposit estimated duties and fees for entries of
13 merchandise covered by the import activity summary
14 statement no later than the 15th day of the month
15 following the month in which the merchandise is en-
16 tered or released, whichever occurs first.”.

17 **SEC. 420. DEFINITION.**

18 In this subtitle, the term “customs revenue function”
19 means the following:

20 (1) Assessing and collecting customs duties (in-
21 cluding antidumping and countervailing duties and
22 duties imposed under safeguard provisions), excise
23 taxes, fees, and penalties due on imported merchan-
24 dise, including classifying and valuing merchandise
25 for purposes of such assessment.



1 (2) Processing and denial of entry of persons,
2 baggage, cargo, and mail, with respect to the assess-
3 ment and collection of import duties.

4 (3) Detecting and apprehending persons en-
5 gaged in fraudulent practices designed to circumvent
6 the customs laws of the United States.

7 (4) Enforcing section 337 of the Tariff Act of
8 1930 and provisions relating to import quotas and
9 the marking of imported merchandise, and providing
10 Customs Recordations for copyrights, patents, and
11 trademarks.

12 (5) Collecting accurate import data for compila-
13 tion of international trade statistics.

14 (6) Enforcing reciprocal trade agreements.

15 (7) Functions performed by the following per-
16 sonnel, and associated support staff, of the United
17 States Customs Service on the day before the effec-
18 tive date of this Act: Import Specialists, Entry Spe-
19 cialists, Drawback Specialists, National Import Spe-
20 cialist, Fines and Penalties Specialists, attorneys of
21 the Office of Regulations and Rulings, Customs
22 Auditors, International Trade Specialists, Financial
23 Systems Specialists.

24 (8) Functions performed by the following of-
25 fices, with respect to any function described in any



1 of paragraphs (1) through (7), and associated sup-
2 port staff, of the United States Customs Service on
3 the day before the effective date of this Act: the Of-
4 fice of Information and Technology, the Office of
5 Laboratory Services, the Office of the Chief Counsel,
6 the Office of Congressional Affairs, the Office of
7 International Affairs, and the Office of Training and
8 Development.

9 **SEC. 421. GAO REPORT TO CONGRESS.**

10 Not later than 3 months after the effective date of
11 this Act, the Comptroller General of the United States
12 shall submit to the Congress a report that sets forth all
13 trade functions performed by the executive branch, speci-
14 fying each agency that performs each such function.

15 **SEC. 422. CORPORATE EXPATRIATES.**

16 (a) LIMITATION.—The United States Customs Serv-
17 ice shall not enter into any new contract with a subsidiary
18 of a publicly traded corporation if the corporation is incor-
19 porated in a tax haven country but the United States is
20 the principal market for the public trading of the corpora-
21 tion's stock.

22 (b) DEFINITION.—For purposes of subsection (a),
23 the term “tax haven country” means each of the following:
24 Barbados, Bermuda, British Virgin Islands, Cayman Is-
25 lands, Commonwealth of the Bahamas, Cyprus, Gibraltar,



1 Isle of Man, the Principality of Liechtenstein, the Princi-
2 pality of Monaco, and the Republic of the Seychelles.

3 (c) WAIVER.—The President may waive subsection
4 (a) with respect to any specific contract if the President
5 certifies to the Committee on Ways and Means of the
6 House of Representatives and the Committee on Finance
7 of the Senate that the waiver is required in the interest
8 of national security.

