

Calendar No. 87

111TH CONGRESS
1ST SESSION**H. R. 2847****[Report No. 111-34]**

IN THE SENATE OF THE UNITED STATES

JUNE 22, 2009

Received; read twice and referred to the Committee on Appropriations

JUNE 25, 2009

Reported by Ms. MIKULSKI, with an amendment

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

AN ACT

Making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 ~~That the following sums are appropriated, out of any~~
4 ~~money in the Treasury not otherwise appropriated, for the~~
5 ~~fiscal year ending September 30, 2010, and for other pur-~~
6 ~~poses, namely:~~

1 and the amount otherwise provided by this Act for “De-
2 partmental management—Salaries and expenses” is here-
3 by reduced by, ~~\$2,500,000~~.

4 This Act may be cited as the “Commerce, Justice,
5 Science, and Related Agencies Appropriations Act, 2010”.
6 *That the following sums are appropriated, out of any*
7 *money in the Treasury not otherwise appropriated, for the*
8 *fiscal year ending September 30, 2010, and for other pur-*
9 *poses, namely:*

10 *TITLE I*

11 *DEPARTMENT OF COMMERCE*

12 *INTERNATIONAL TRADE ADMINISTRATION*

13 *OPERATIONS AND ADMINISTRATION*

14 *For necessary expenses for international trade activi-*
15 *ties of the Department of Commerce provided for by law,*
16 *and for engaging in trade promotional activities abroad,*
17 *including expenses of grants and cooperative agreements for*
18 *the purpose of promoting exports of United States firms,*
19 *without regard to 44 U.S.C. 3702 and 3703; full medical*
20 *coverage for dependent members of immediate families of*
21 *employees stationed overseas and employees temporarily*
22 *posted overseas; travel and transportation of employees of*
23 *the International Trade Administration between two points*
24 *abroad, without regard to 49 U.S.C. 40118; employment of*
25 *Americans and aliens by contract for services; rental of*

1 *space abroad for periods not exceeding 10 years, and ex-*
2 *penses of alteration, repair, or improvement; purchase or*
3 *construction of temporary demountable exhibition struc-*
4 *tures for use abroad; payment of tort claims, in the manner*
5 *authorized in the first paragraph of 28 U.S.C. 2672 when*
6 *such claims arise in foreign countries; not to exceed*
7 *\$327,000 for official representation expenses abroad; pur-*
8 *chase of passenger motor vehicles for official use abroad, not*
9 *to exceed \$45,000 per vehicle; obtaining insurance on offi-*
10 *cial motor vehicles; and rental of tie lines, \$455,704,000,*
11 *to remain available until September 30, 2011, of which*
12 *\$9,439,000 is to be derived from fees to be retained and used*
13 *by the International Trade Administration, notwith-*
14 *standing 31 U.S.C. 3302: Provided, That not less than*
15 *\$49,530,000 shall be for Manufacturing and Services; not*
16 *less than \$43,212,000 shall be for Market Access and Com-*
17 *pliance; not less than \$68,290,000 shall be for the Import*
18 *Administration; not less than \$257,938,000 shall be for the*
19 *Trade Promotion and United States and Foreign Commer-*
20 *cial Service; and not less than \$27,295,000 shall be for Ex-*
21 *ecutive Direction and Administration: Provided further,*
22 *That the provisions of the first sentence of section 105(f)*
23 *and all of section 108(c) of the Mutual Educational and*
24 *Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and*
25 *2458(c)) shall apply in carrying out these activities without*

1 regard to section 5412 of the Omnibus Trade and Competi-
2 tiveness Act of 1988 (15 U.S.C. 4912); and that for the pur-
3 pose of this Act, contributions under the provisions of the
4 Mutual Educational and Cultural Exchange Act of 1961
5 shall include payment for assessments for services provided
6 as part of these activities: Provided further, That negotia-
7 tions shall be conducted within the World Trade Organiza-
8 tion to recognize the right of members to distribute monies
9 collected from antidumping and countervailing duties: Pro-
10 vided further, That negotiations shall be conducted within
11 the World Trade Organization consistent with the negoti-
12 ating objectives contained in the Trade Act of 2002, Public
13 Law 107–210, to maintain strong U.S. remedies laws, cor-
14 rect the problem of overreaching by World Trade Organiza-
15 tion Panels and Appellate Body, and prevent the creation
16 of obligation never negotiated or expressly agreed to by the
17 United States: Provided further, That within the amounts
18 appropriated, \$1,500,000 shall be used for the projects, and
19 in the amounts, specified in the table entitled “Congressional-
20 ally designated projects” in the report of the Committee on
21 Appropriations of the Senate to accompany this Act.

22 *BUREAU OF INDUSTRY AND SECURITY*

23 *OPERATIONS AND ADMINISTRATION*

24 *For necessary expenses for export administration and*
25 *national security activities of the Department of Commerce,*

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111TH CONGRESS }
1st Session }

SENATE

{ REPORT
111-34

DEPARTMENTS OF COMMERCE AND JUSTICE, AND
SCIENCE, AND RELATED AGENCIES APPROPRIATIONS
BILL, 2010

JUNE 25, 2009.—Ordered to be printed

Ms. MIKULSKI, from the Committee on Appropriations,
submitted the following

REPORT

[To accompany H.R. 2847]

The Committee on Appropriations to which was referred the bill (H.R. 2847) making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes, reports the same to the Senate with an amendment, and recommends that the bill, as amended, do pass.

Total obligational authority, fiscal year 2010

| | |
|---|-----------------------------|
| Total of bill as reported to the Senate | \$67,492,432,000 |
| Amount of 2009 appropriations | ¹ 76,101,698,000 |
| Amount of 2010 budget estimate | 67,183,677,000 |
| Amount of House allowance | 67,196,907,000 |
| Bill as recommended to Senate compared to— | |
| 2009 appropriations | – 8,609,266,000 |
| 2010 budget estimate | + 308,755,000 |
| House allowance | + 295,525,000 |

¹ Includes \$16,209,675,000 in emergency appropriations provided in the American Recovery and Reinvestment Act of 2009 and other supplemental appropriation funding acts.

blunders arise forcing the census to be delayed or even compromised.

Another challenge facing the Department is the successful operations of the Patent and Trademark Office [USPTO], which is vital to America’s competitiveness in the global marketplace. The Committee has learned that during these recent economic times, fees collections are \$100,000,000 less than expected, and patent and trademark applications have decreased. These trends could complicate an already poor-morale and low-retention environment. The Committee is concerned that this situation will increase the backlog problem.

In 2010, the Committee entrusts the Department will ensure USPTO has the resources it needs to process applications timely, keep staff on board, and continue issuing patents and trademarks to give American inventors incentives to stay innovative.

Finally, the Committee will continue to examine NOAA’s satellite programs which have undergone extensive independent reviews after experiencing cost overruns, delays, and setbacks. Satellite acquisitions account for 25 percent of NOAA’s budget, with over \$1,200,000,000 requested in 2010. They are critical to predicting the weather and observing changes in the Earth’s climate. More importantly, satellites help save lives and save the planet. The committee wants to know how the Department plans to handle recent recommendations to realistically bring the satellite program back on track and maintain proper oversight of the program and its associated contractors.

INTERNATIONAL TRADE ADMINISTRATION
OPERATIONS AND ADMINISTRATION

| | |
|--------------------------------|---------------|
| Appropriations, 2009 | \$420,431,000 |
| Budget estimate, 2010 | 440,265,000 |
| House allowance | 444,404,000 |
| Committee recommendation | 446,265,000 |

The Committee’s recommendation provides \$446,265,000. The recommendation is \$25,832,000 above the fiscal year 2009 enacted level and \$6,000,000 above the budget request.

The Committee recommendations, by function, are displayed in the following table:

INTERNATIONAL TRADE ADMINISTRATION FUNDING
[In thousands of dollars]

| | Committee recommendation |
|--|-----------------------------|
| Manufacturing and Services | 49,530 |
| Market Access and Compliance | 43,212 |
| Import Administration | 68,290 |
| Trade Promotion and U.S. Foreign Commercial Services | 257,938 |
| Executive Direction | 27,295 |
| Total Direct Obligations | 446,265 |

Offsetting Fee Collections.—The Committee recommendation adopts the proposed offsetting fee collections of \$9,439,000, which the Committee believes is realistic and achievable.

Anti-dumping and Countervailing Duties Study.—The Committee directs the Secretary of Commerce to work with the Secretaries of Homeland Security, and the Treasury to conduct an analysis and report to Congress on the relative advantages and disadvantages of prospective and retrospective anti-dumping and countervailing duty systems. The report should address the extent to which each type of anti-dumping and countervailing duty system would likely achieve the goals of remedying injurious dumping or subsidized exports, minimizing uncollected duties, reducing incentives and opportunities for importers to evade anti-dumping and countervailing duties, effectively targeting high-risk importers, addressing the impact of retrospective rate increases on U.S. importers and their employees, and creating a minimal administrative burden. The report is due 180 days after enactment of this act.

Appalachian-Turkish Trade Project.—The Committee continues to recognize the importance of trade and investment opportunities to the Appalachian Region, and it is encouraged by the findings in reports that Appalachian firms could find significant trade and investment opportunities, particularly in the energy, hardwood, high technology, and transportation sectors, in the Republic of Turkey and the surrounding region. In this regard, the Committee supports the Appalachian-Turkish Trade Project [ATTP], a project to promote opportunities to expand trade, encourage business interests, stimulate foreign studies, and build a lasting and mutually meaningful relationship between Appalachian States and the Republic of Turkey, as well as neighboring countries in the region, such as Greece. The Committee commends the Commercial Services for its leadership role in helping to implement the mission of the ATTP. The Committee expects the Commercial Services to continue to be a prominent ATTP sponsor.

World Trade Organization.—The Committee is aware of the World Trade Organization [WTO] Appellate Body's January 16, 2003, ruling regarding the Continued Dumping and Subsidy Offset Act. The Committee directs the Department of Commerce, in consultation with the Office of the U.S. Trade Representative, to conduct negotiations within the WTO to seek express recognition of the existing right of WTO Members to distribute monies collected from anti-dumping and countervailing duties as they deem appropriate. The agency shall consult with and provide regular reports, every 60 days, to the Senate Committee on Appropriations on the negotiations.

In addition, the Committee directs that negotiations be conducted within the WTO consistent with the negotiating objectives contained in the Trade Act of 2002, Public Law 107-210, to maintain strong U.S. trade remedies laws, prevent overreaching by WTO Panels and the WTO Appellate Body, and prevent the creation of obligations never negotiated or agreed to by the United States.

U.S. Foreign Commercial Service.—The U.S. Foreign Commercial Service promotes the export of goods and services from the United States, particularly by small- and-medium-sized businesses, and represents U.S. business interests internationally. Currently, there are 77 countries staffed by Foreign Commercial Service Officers and locally employed specialists. However, there have been a rap-

idly growing number of “limited” officers assigned to non-commercial posts working on intellectual property rights, enforcement, and standards, as well as officers serving in domestic locations, which has seriously diminished the number of officers conducting core commercial activities. Overall staffing has dropped from 1,736 in 2004 to 1,513 in 2008. The number of core commercial officers has also dropped from 250 in 2004 to less than 180 in 2008. The Committee provides an additional \$4,500,000 above the amount requested for this service, and directs the administration to begin reversing this trend of staff reductions and improper staff assignments. The Committee requests that the Government Accountability Office [GAO] conduct a study that evaluates: (1) cost estimates related to improving the U.S. Foreign Commercial Service workforce, (2) the current international need, and any service gaps, resulting from the reduced number of officers working overseas, and (3) the level of financial support the U.S. Foreign Commercial Service received from the administration in relation to its sibling services in the Departments of State and Agriculture.

The Committee provides \$1,500,000 for congressionally designated projects, and directs the ITA to refrain from charging administrative costs to these grants. The Committee expects that ITA will provide appropriate management and oversight of each grant.

INTERNATIONAL TRADE ADMINISTRATION
 [Congressionally designated projects]

| Recipient | Project | Description | Amount |
|---|--|---|-----------|
| Philadelphia University, Philadelphia, PA | Textile Research and Development | Advance textile research and development | \$500,000 |
| Midwest China Hub Commission, St. Louis, MO | Midwest China Hub Commission | Develop new markets for Midwestern products | 500,000 |
| University of Nebraska-Lincoln, Lincoln, NE | International Trade Scholars Program | Establish a graduate level program to train students in international trade issues. | 500,000 |