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REPORT BY THE
Comptroller General
OF THE UNITED STATES

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**Customs' Office Of
Investigations Needs
To Concentrate Its
Resources On Quality Cases**

By accepting too many cases, the Office of Investigations, U.S. Customs Service, overlooks case quality. That is, quality is being sacrificed for quantity. The Office should devote its resources to the more significant investigations.

Recognizing this, the Office of Investigations recently made improvement of case quality its primary, long-term objective. This strategy should improve the utilization of resources if effectively implemented and assessed.

Accomplishment statistics--the Office's performance measures--are inaccurate or misleading. If an adequate assessment is to be made, the Office must develop more accurate accomplishment statistics.



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COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D.C. 20548

B-114898

The Honorable Al Ullman
Chairman, Committee on
Ways and Means
House of Representatives

Dear Mr. Chairman:

As requested in your October 3, 1977, letter, we studied Customs' Office of Investigations and examined the results of its investigative efforts. By doing too much the Office overlooks case quality. The Office could improve its effectiveness by concentrating its resources on fewer but more significant investigations.

Your office requested that we not obtain written comments on this report. The matters dealt with, however, were discussed with Treasury officials.

As agreed with your office, we will make unrestricted distribution of this report to interested parties 30 days after the date of the report subject to the Committee's concurrence or earlier if publicly released by the Committee.

Sincerely yours,

James R. [Signature]

Comptroller General
of the United States

DLS 00076

COMPTROLLER GENERAL'S
REPORT TO THE HOUSE COMMITTEE
ON WAYS AND MEANS

CUSTOMS' OFFICE OF
INVESTIGATIONS NEEDS
TO CONCENTRATE ITS
RESOURCES ON QUALITY CASES

D I G E S T

The Office of Investigations conducts criminal, civil, and factfinding investigations of alleged violations of the laws enforced by the U.S. Customs Service. Its 650 agents are authorized to carry weapons and make searches, seizures, and arrests. In recent years its investigative efforts have been mainly directed to fraud, smuggling, cargo theft, and violations of neutrality and currency laws.

Z The Office of Investigations has achieved a number of major accomplishments. But most of its resources are spent on cases which yield no violations or deficiencies. This is due, at least in part, to the Office's accepting and investigating numerous cases referred to it by other Customs organizations regardless of the merits of the case. By doing too much, the Office overlooks case quality. (See p. 4.)

Recognizing this, the Office of Investigations recently made improvement of case quality its primary, long-term objective and is developing quality measures and selection criteria. (See p. 4.)

The Office of Investigations' adoption of a quality over quantity approach would be a major step forward if effectively implemented. (See p. 7.)

The Office of Investigations shows the results of its investigations via

GGD-79-33

"accomplishment" statistics. These statistics are the major indicators used by the Congress, the Treasury, and Customs to evaluate the Office's effectiveness.

These statistics have not been meaningful or reliable indicators of effectiveness because the reporting categories are misleading, accomplishments questionable, and data inaccurate. For example:

--90 percent of seizure values claimed represented temporary seizures which were returned to the alleged violators. (See p. 9.)

--Reported cash revenue collections were overstated by 56 percent at the three field offices included in GAO's review. (See p. 10.)

RECOMMENDATIONS

The Secretary of the Treasury should have the Assistant Secretary (Enforcement and Operations) proceed with the development of investigative priorities and case selection criteria for Customs' Office of Investigations. (See p. 7.)

The Secretary of the Treasury should have the Commissioner of Customs implement clear, accurate, and complete reporting of accomplishment statistics. (See p. 14.)

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As requested by the Chairman's office, GAO did not solicit formal comments on this report. However, GAO discussed these matters with Customs officials, and their comments were considered in preparing the report.

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ABBREVIATIONS

IPA Investigative Program Analysis

CHAPTER 1

INTRODUCTION

The Chairman, House Committee on Ways and Means, in a letter dated October 3, 1977, asked us to study the U.S. Customs Service's Office of Investigations, focusing on the results and significance of its investigative cases. (See app. I.) The review was delayed because of agency concerns about protecting sensitive information in the investigative case files. These concerns were not resolved until May 1978.

The Office of Investigations investigates violations of laws enforced by Customs. Prior to 1974, the Office's special agents were primarily narcotics investigators. Since transfer of its narcotics investigation responsibility to the Drug Enforcement Administration under Reorganization Plan 2 of 1973, the Office's investigative efforts have become more diversified, focusing on fraud, smuggling, cargo theft, and violations of neutrality and currency laws.

ORGANIZATION AND STAFFING

The Office of Investigations, headed by an Assistant Commissioner of Investigations, consists of four headquarters divisions, eight foreign offices, and nine regional offices. The headquarters divisions are Fraud, General, Currency, and Special Investigations. The foreign offices, under Customs attaches or senior Customs representatives, are in Paris, London, Rome, Bonn, Tokyo, Mexico City, Hong Kong, and Montreal.

The regional offices are headed by regional directors of investigations who report directly to the Assistant Commissioner's office. The regions are Boston, New York, Baltimore, Miami, New Orleans, Houston, Los Angeles, San Francisco, and Chicago. Under the regions are 66 field offices--40 under a special agent in charge, and 26 smaller offices headed by a resident agent.

Beginning in fiscal year 1978, the Office had 893 employees--650 agents and 243 staff and clerical personnel. Of the total, 65 were at headquarters, 51 in foreign offices, and 777 in the regions and field offices. The Office's budget for fiscal year 1978 was \$34.1 million.

ROLE OF THE OFFICE OF INVESTIGATIONS

The Office is the investigative arm of Customs. It investigates all violations of Customs and related laws and regulations, except for those falling under the jurisdiction of Customs' Office of Internal Affairs. Its special agents are nonuniformed criminal investigators authorized to administer oaths; make searches, seizures, and arrests; and carry weapons.

The Office classifies cases into 33 categories. A brief description of some of these categories follows.

- Fraud: civil and criminal violations of Customs laws which usually involve the entering of or attempt to enter goods into the United States by means of false or fraudulent statements or practices.
- Smuggling: illegal importations of merchandise, diamonds, jewelry, liquor, and drugs.
- Cargo theft: thefts of imported merchandise stolen while under Customs custody.
- Currency: violations of the Currency and Foreign Transactions Reporting Act, which requires that persons who transport, mail, or ship monetary instruments in excess of \$5,000 into or out of the country, report such transactions to Customs.
- Neutrality: violations of the export provisions of the Arms Export Control Act.
- Navigation: violations of navigation laws and Customs regulations prescribing procedures for entry, clearance, and movements of vessels, vehicles, and aircraft.

WORKLOAD MEASUREMENT

The Office measures workload by the number of cases investigated. A case is initially recorded in a management information system when assigned to an agent, and is recorded as closed when investigation has been completed and disposition of all results is known and recorded. The Office reported 25,883 cases opened and 29,959 cases closed during fiscal year 1977. The number of cases reported include a separate case for each office participating in the same investigation.

Almost two-thirds of the Office's cases are referrals. Most referrals are from other Customs personnel, such as inspectors, patrol officers, and import specialists. A smaller number of referrals are from other Federal, State, or local agencies. The Office's special agents initiate the other one-third of the caseload.

The Office's backlog of open cases increased from about 11,000 in September 1974 to 14,979 in September 1976. It was reduced to 11,067 by September 1977, and has remained at about that level.

REPORTING OF ACCOMPLISHMENTS

The Office of Investigations reports the results of its investigations each year in its Enforcement Accomplishments Report. The key performance measures reported are (1) seizures, (2) cash revenue collections, (3) loss of revenue, (4) penalties imposed, and (5) number of arrests. These statistics are used primarily (1) in budget justifications to Customs, the Treasury, and the Congress and (2) by the Office to evaluate its own effectiveness.

The source for these statistics is the Office's Investigative Program Analysis (IPA) management information system. Field agents record results, hours, and other case information on forms which they send to the Customs Law Enforcement Computer Center in San Diego, where the data are key-punched, processed, and analyzed. The Office's headquarters, regions, and field offices receive IPA printouts monthly for review and analysis.

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CHAPTER 2

SELECTING CASES FOR INVESTIGATION--

NEED FOR NEW STRATEGY

As part of its many tasks, the Office of Investigations responds to numerous cases referred by other Customs organizations. By accepting all cases, the Office overlooks case quality. As a result, its efforts are diffused over a large number of cases yielding no violations or deficiencies.

Recognizing the limitations of its "quantity" approach, the Office proposed, as its primary, long-term objective, to improve case "quality." In fiscal year 1978, the Office proposed to concentrate its manpower on a relatively small number of high-priority investigations producing quality law enforcement. However, the Office did not develop any criteria during fiscal year 1978 and, as a result, limited progress occurred.

In September 1978, the Office submitted to the Department of the Treasury a draft of investigative priorities for fiscal year 1979. The draft provided that the goals for the fiscal year would be:

- Developing investigative quality measures and acceptance criteria for cases.
- Formally establishing investigative priorities.
- Assessing the legal, operational, and long-term impact of declining certain categories of low-priority investigations--the selective enforcement issue.
- Comprehensively comparing Customs' investigative approach with those of other Federal investigative agencies, such as the FBI.

As of January 1979, the proposal--which would be a major step forward--was still under discussion with Treasury officials. The Office, however, was simultaneously trying to develop quality measures and selection criteria.

MANAGEMENT OF INVESTIGATIVE
RESOURCES NEEDS IMPROVEMENT

The Office's past objectives have emphasized increasing the number of arrests, seizures, and collections. It allocated most of its resources to those investigations which would produce the desired statistics. In opening investigations, however, the Office generally did not rank cases in order of importance. Under this nondiscriminatory approach, the Office maintained a large caseload and measured its effectiveness on the basis of overall accomplishment statistics.

However, studies by the Law Enforcement Assistance Administration of evaluative measures have shown that numerical goals force management to concentrate on safe and easy statistics, instead of undertaking complex, time-consuming investigations. The Office's mere counting of numbers of cases, convictions, or dollar settlements is an evaluative measure; but it needs to be combined with quality criteria in order to be properly interpretive. The Federal Bureau of Investigation recognized this when it initiated its own quality over quantity approach in 1975.

ANALYSIS OF PAST RESULTS
SHOWS LIMITED ACCOMPLISHMENTS

Some of the Office's investigations have resulted in a number of major accomplishments which have been highlighted in the Office's accomplishment reports, the Treasury's annual report, and in congressional testimony. These significant cases, however, accounted for a small part of the Office's workload.

Most investigations do not
result in accomplishments

Of 22,374 1/ cases closed during fiscal year 1977, the following results for the Office's major investigative categories show that most cases were closed with no violations or deficiencies.

1/Cases and hours are consolidated for multioffice investigations to the extent they could be identified.

Investigative category	Cases closed		Hours expended	
	Total	Percentage with no accomplishments	Total	Percentage spent on cases with no accomplishments
Fraud	4,203	82	217,299	65
Smuggling	3,857	84	165,946	57
Neutrality	1,185	90	90,648	72
Cargo theft	1,014	84	87,548	59
Currency	1,155	82	40,557	68
Navigation	1,098	71	22,152	63
Total	<u>12,512</u>		<u>624,150</u>	

These cases accounted for more than 70 percent of the Office's efforts and over one-half of all cases closed. Only 2,178 cases, or 17 percent, resulted in arrest, collection, or seizure--the Office's primary measures of investigative accomplishments.

Some of the Office's investigative categories, such as Customhouse licenses (3,036 cases closed), and petitions for relief (1,474 cases closed), are to provide information for other Customs activities rather than arrests, collections, or seizures. These, plus the Office's six major investigative categories, accounted for over 80 percent of the Office's efforts for fiscal year 1977.

Results of fraud investigations misleading

Fraud investigations seem cost effective when measured by total monetary accomplishments. For example, the Office reported that, for fiscal year 1977, \$221,200 was collected per staffyear expended on fraud cases. A review of fraud cases closed in fiscal year 1977, however, shows that most fraud cases (3,439 cases out of 4,203 cases) were closed with no accomplishments and that of the 764 cases with collections, 189 cases accounted for 90 percent of the collections.

The Office spent over 25 percent of its investigative efforts on fraud cases during fiscal year 1977--the most spent in any one investigative category. Fraud cases accounted for more than 90 percent of the loss of revenue and over 80 percent of collections claimed by the Office, but less than 4 percent of reported arrests. Undervaluation is the most common type of fraud investigated and consists

of declaring a lower invoice value to Customs, thereby depriving the Government of lawful revenue.

Over 95 percent of fraud violations have been handled as civil, rather than criminal, fraud. Violations of the civil fraud statute (19 U.S.C. 1592) range from ordinary negligence to fraudulent intent.

Our analysis of fraud cases closed during fiscal year 1977 showed that:

- Only one in five cases had an accomplishment.
- 90 percent of reported collections resulted from 5 percent of the cases investigated.
- In 575 cases, or 75 percent of cases with collections, the cost to investigate often exceeded the amount collected.

CONCLUSIONS

Although the Office's investigations have resulted in a number of major accomplishments, it has used most of its resources on cases which yielded no violations or deficiencies.

All cases are not going to have an accomplishment, but the Office's high percentage of cases that are closed with no violations or deficiencies is ample proof that the Office needs to assess its role and to establish criteria for opening a case. In the past, the more prudent course in the Office of Investigations was to investigate all cases--quantity versus quality. However, such a course is not the best way to manage its investigative resources.

The Office's proposal to the Treasury includes, among other things, the designation of investigative priorities through development of quality measures and selection criteria. The strategy should greatly improve Office management of its resources if effectively implemented and assessed.

RECOMMENDATION

We recommend that the Secretary of the Treasury have the Assistant Secretary (Enforcement and Operations) proceed with the development of investigative priorities and case selection criteria for Customs' Office of Investigations.

CHAPTER 3

ACCOMPLISHMENT STATISTICS ARE MISLEADING

The Office's reported statistics are not meaningful or reliable indicators of its accomplishments or performance. Reporting categories are misleading, accomplishments questionable, and data inaccurate. For example, some accomplishments are reported twice.

REASONS

Accomplishment statistics reported by the Office are misleading because:

- Seizures later returned are claimed as accomplishments.
- Cash revenue collections are overstated.
- Loss of revenue either duplicates reported collections or does not result in a collection.
- Penalties imposed greatly exceed amounts collected.

The Office reported the following results for fiscal years 1976 and 1977:

<u>Performance measure</u>	Fiscal year <u>1976</u>	Fiscal year <u>1977</u>
	(dollar amounts in thousands)	
Seizures	\$36,564	\$41,013
Cash revenue collections	\$23,654	a/\$30,474
Loss of revenue	\$17,811	\$19,503
Penalties imposed	\$1,044,514	\$768,837
Arrests (number)	1,172	1,302

a/Includes \$12 million (40 percent of total) that was collected by the Internal Revenue Service as a result of an Office investigation.

Seizures later returned
claimed as accomplishments

The majority of seizures--such as merchandise, airplanes, boats, vehicles, and currency--reported by the Office are later returned to the alleged violator. Seizures, the physical or constructive possession of items, are reported when made, regardless of their purpose or ultimate disposition.

Reporting temporary seizures as accomplishments, even though they may be a valid part of the enforcement process, is misleading.

Only about 10 percent of the value of seizures recorded for all cases closed during fiscal year 1977 were accomplishments. For example, currency seizures amounted to \$2.3 million, of which 90 percent was returned by the Government. In currency reporting violations where no related criminal activity is found, the currency is generally returned for payment of 1 percent of the amount transported, or, in first offenses, for a payment of \$100 to \$1,000. The Office includes temporary seizures of currency in its reporting of seizure values, as illustrated by the following examples.

--The Office reported a \$50,000 currency seizure which was returned for payment of a \$500 fine.

--The Office reported a \$52,352 currency seizure which was returned for a \$100 fine.

Our review of 83 case files disclosed that most seizures were returned to the alleged violator.

<u>Reviewed</u>		<u>Returned to</u>		<u>Forfeitures and</u>	
<u>Number of</u>		<u>alleged violator</u>		<u>recoveries</u>	
<u>cases</u>	<u>Amount</u>	<u>Amount</u>	<u>Percent</u>	<u>Amount</u>	<u>Percent</u>
83	\$5,941,000	\$5,281,000	89	\$660,000	11

Only 11 percent of seizure values claimed resulted in the items being forfeited to the Government or returned to their legal owners. Following are examples of reported seizures of property which was subsequently returned to the alleged violator.

--The Office seized \$3.9 million of equipment from a major company in a fraud case involving \$55,464 loss

of revenue. The purpose of the seizure was to "protect the revenue," i.e., assure payment of duties and penalties. The equipment was later released to the company in return for a letter of credit of \$175,000 to cover its potential liability.

--The Office seized a yacht valued at \$52,500 for a navigation violation. Customs released the yacht to the owner after payment of a \$350 penalty.

Cash revenue collections are overstated

Our review of \$2.7 million of cash revenue collections showed an overstatement of \$1.5 million. The overstatement was due to (1) collections reported which were never made, duplications, and other errors in recording data, (2) improper inclusion of the value of forfeited seizures as cash collections, and (3) claims of voluntary payments made prior to investigation as an Office accomplishment.

Review of 137 cases disclosed the following discrepancies in reported collections:

Cash revenue collections reviewed	Discrepancies		Reasons		
	Amount	Percent	Inaccurate	Seizure values	Voluntary payments
\$2,727,772	\$1,515,498	56	\$1,046,559	\$315,572	\$153,367

Collections claimed were inaccurate

Collections are to be reported when Customs receives payment or a promissory note. Special agents, however, have been reporting sizable collections before receiving evidence of payment. Following are some examples:

- An agent reported a collection of \$234,516 without having any evidence of payment. The case file contains information that the violator has been declared bankrupt. The case has been referred to Customs' legal counsel.
- An agent reported a \$390,911 collection of duties and penalties. Customs has not received payment, and the case has been referred to the U.S. Attorney for collection.

--An agent reported a duty collection of \$124,018 that had not been received. The case has not been settled pending the outcome of a court case on a similar matter.

Collection amounts recorded also contained a number of errors or duplications. For example:

--A \$567.12 collection was erroneously recorded as \$56,712 because the agent did not report the amount in whole dollars as required.

--A \$35,000 collection was counted twice.

--The same collection was claimed by different offices. In one instance, two offices claimed credit for \$14,790; in another, two offices claimed a \$23,782 collection.

Seizure values also
claimed as cash collections

The Office of Investigations claims the value of seizures forfeited to the Government as both a seizure and a cash collection--a double accomplishment.

The Office's field offices record the disposition of seizures under the IPA category "mitigated forfeitures." This category includes not only cash fines received for return of seized items, but the seizure value of an item if it is forfeited to the Government. The Office's headquarters includes the total amounts recorded in this category, about \$4 million a year, in its reporting of cash revenue collections. Our review of mitigated forfeitures recorded in 42 cases disclosed that 88 percent were not cash collections. The following are examples of seizure values which were also reported as cash collections:

--\$113,973 which was the estimated value of pornography and perfume seized and destroyed by the Government.

--\$51,800 representing the seizure value of parrots given to a zoo.

--\$30,000 of artifacts returned to Mexico.

--\$38,000 which was the seizure value of rare birds given to an animal park.

--\$56,343 of clothing to be sold at public auction.

Voluntary payments improperly claimed as accomplishments

Customs' policy has been to encourage voluntary disclosure--that is, disclosures made before an investigation--of violations by importers. Payments resulting from such disclosures do not result from an investigation and should not be claimed as accomplishments.

Our review of selected cases disclosed that special agents had reported \$153,367 of voluntary payments as cash collections. The Office has recently clarified its policy to state that "in no instance should voluntary tenders made before investigation be attributed to the investigation itself in the IPA reports."

Loss of revenue either duplicates collections or does not result in a collection

The Office defines loss of revenue as the amount of additional duty due the Government which its special agents uncovered, largely through fraud investigations. When and if the duty is collected, the Office claims another accomplishment--under reported Cash Revenue Collections.

The Office states in its reports that the Government subsequently collects almost 100 percent of the reported loss of revenue. However, the amounts claimed as loss of revenue did not necessarily result in collections because they could not be supported, were found to be uncollectible, or were inaccurately reported. As a result, the duties collected were considerably less than the loss of revenue claimed, and the accomplishments were overstated. Following are examples of cases in which the reported loss of revenue was not collected:

--The Office reported a loss of revenue of \$194,739 computed on 1,250 containers. Customs determined the violation could be supported on only 180 of these containers. Duty collected was only \$28,042.

--The Office reported a \$3,797,430 loss of revenue which Customs subsequently determined to be uncollectible. Customs settled the case for \$28,392.

--A \$1,134 loss of revenue was incorrectly recorded as \$113,438.

Penalties imposed overstate accomplishments

Penalties imposed and reported are the amounts assessed by Customs as prescribed by laws and regulations. They bear little or no relationship to the final penalty collected. Customs has the authority to mitigate the penalty, which it normally does on the basis of the loss of revenue involved and the degree of intent by the violator. In our report "Customs' Penalty Assessment and Mitigation Procedures--Changes Would Help Both the Government and Importers" (GGD-78-5, Mar. 13, 1978), we reported that of 175 cases in one district, 136 were mitigated and 95 percent of these had the penalty reduced.

Actual settlement of the penalty is also reported under Cash Revenue Collections. Following are examples of mitigated penalties:

--A penalty of \$11,195,134 was assessed and subsequently reduced to \$10,713.

--A penalty of \$81,430,318 was assessed and subsequently reduced to \$101,330.

Need for more meaningful information on the results of criminal investigations

Although the Office's management information system contains the disposition of arrests in terms of convictions, acquittals, or dismissals, it has no information concerning the seriousness of violations (felonies or misdemeanors). As a result, the reported arrests contain no indication of their relative importance. This type of information will be necessary to implement and measure the effectiveness of a quality over quantity approach.

CONCLUSIONS

While accomplishment statistics are an indicator of effectiveness, the Office of Investigations' procedures

and practices have resulted in misleading and inaccurate reporting of accomplishments. Their usefulness is therefore impaired (1) as a basis for Customs, the Treasury, and the Congress to evaluate the Office's performance and (2) for the Office to manage its own operations.

RECOMMENDATION

We recommend that the Secretary of the Treasury have the Commissioner of Customs implement clear, accurate, and complete reporting of accomplishment statistics. In this vein, the Office's reporting could be improved by using three accomplishment categories: recoveries, cash collections, and criminal statistics.

1. Recoveries should include the value of seizures forfeited to the Government or recovered for other parties. Temporary seizures should not be reported as an accomplishment.
2. Cash collections should include only the amounts that Customs actually collects.
3. Criminal statistics should disclose (in addition to number of arrests), the type of violation and the number of convictions.

CHAPTER 4

SCOPE OF REVIEW

We reviewed the Office of Investigations' policies and procedures and interviewed headquarters and regional officials. We also reviewed the Office's accomplishment reports for fiscal years 1975-77 and its reporting procedures and practices. In addition, we obtained a copy of the IPA case record file (computer tape) to analyze the results of cases closed during fiscal year 1977.

In May 1978, Treasury officials agreed to let us examine the Office's investigative case files. Our fieldwork was conducted at the Office's Baltimore, Detroit, and Los Angeles district offices. We reviewed 250 case files at these offices, discussed them with the case agents, and interviewed the special agents in charge. Cases were selected for review from computer listings covering the period June 1977 through May 1978.

NINETY-FIFTH CONGRESS

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U.S. HOUSE OF REPRESENTATIVES

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TELEPHONE (202) 225-3625

October 3, 1977

JOHN M. MARTIN, JR., CHIEF COUNSEL
 J. P. BAKER, ASSISTANT CHIEF COUNSEL
 JOHN K. MEAGHER, MINORITY COUNSEL

Honorable Elmer B. Staats
 Comptroller General of the United States
 General Accounting Office
 General Accounting Office Building
 441 G Street
 Washington, D.C. 20548

Dear Elmer:

The Subcommittee on Trade has been engaged in an ongoing study of the United States Customs Service. The scope of this effort will also include an assessment of the effectiveness of Customs utilization of personnel.

It is my belief that the General Accounting Office can be of assistance to our effort.

Accordingly, I am requesting that the General Accounting Office study Customs' Office of Investigations and provide:

1. An analysis of the role of the Office of Investigations, including (a) a study of its objectives, and (b) the methodology used to evaluate the effectiveness of the office.

2. An analysis of the results of the Office of Investigations efforts concerning its fraud investigations and the general investigations from fiscal year 1976 to the present, focusing on the number of cases, nature of the investigations, significance of the violations, losses of Customs revenue discovered, penalties

Honorable Elmer B. Staats
Page 2

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assessed, actual collections and/or convictions obtained as a result of their efforts.

3. An assessment of the Office of Investigations workload, focusing on the significance of the cases and whether or not all cases justify investigation in light of the increasing backlog of work.

So as to be of maximum benefit to the Committee in conducting hearings, we would appreciate receiving your report by early April, 1978.

Your cooperation is greatly appreciated.

Sincerely,



Al Ullman
Chairman

AU/DBRn

cc: Hon. James R. Jones

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