H. R. 842

To amend the Tariff Act of 1930 to eliminate disincentives to fair trade conditions.

IN THE HOUSE OF REPRESENTATIVES

February 24, 1999

Mr. Regula (for himself, Mr. LaTourette, Mr. Canady of Florida, Ms. Lofgren, Ms. Ros-Lehtinen, Mr. Manzullo, Mr. Cunningham, Mr. Doyle, Mr. Klink, Mr. Ney, Mr. Skelton, Ms. Kaptur, Mr. Strickland, Mrs. Thurman, Mr. Aderholt, Mr. Whitfield, Ms. DeGette, Mr. Shuster, Mr. Skeen, Mr. Mollohan, Mr. Souder, Mr. Deutch, and Mr. Spratt) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Tariff Act of 1930 to eliminate disincentives to fair trade conditions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Continued Dumping or Subsidy Offset Act of 1999”.

SEC. 2. FINDINGS OF CONGRESS.

Congress makes the following findings:
(1) Consistent with the rights of the United States under the World Trade Organization, injurious dumping is to be condemned and actionable subsidies which cause injury to domestic industries must be effectively neutralized.

(2) United States unfair trade laws have as their purpose the restoration of conditions of fair trade so that jobs and investment that should be in the United States are not lost through false market signals.

(3) The continued dumping or subsidization of imported product after the issuance of antidumping orders or findings or countervailing duty orders can frustrate the remedial purpose of the laws by preventing market prices from returning to fair levels.

(4) Where dumping or subsidization continues, domestic producers will be reluctant to reinvest or rehire and may be unable to maintain pension and health care benefits that conditions of fair trade would permit. Similarly, small businesses and America’s farmers and ranchers may be unable to pay down accumulated debt, to obtain working capital or otherwise remain viable.
(5) United States trade laws should be strengthened to see that the remedial purpose of the laws is achieved in fact.

SEC. 3. AMENDMENTS TO THE TARIFF ACT OF 1930.

(a) IN GENERAL.—Chapter 1 of subtitle C of title VII of the Tariff Act of 1930 (19 U.S.C. 1675 et seq.) is amended by adding at the end the following new section:

“SEC. 754. CONTINUED DUMPING OR SUBSIDY OFFSET.

“(a) IN GENERAL.—Whenever continued dumping or subsidization is found to exist by the administering authority under section 751(a) of this Act or by operation of law, any duties assessed shall be distributed to the affected domestic producers for qualifying expenditures on an annual basis. Such disbursement shall be known as the ‘continued dumping or subsidy offset’.

“(b) DEFINITIONS.—As used in this section:

“(1) The term ‘affected domestic producer’ means any manufacturer, producer, farmer, rancher or worker representative, including associations of such individuals and entities, that was a petitioner or interested party in support of the petition with respect to which an antidumping duty finding or order or countervailing duty order has been entered and remains in operation. Companies or businesses that have ceased the production of the product cov-
erred by the order or finding or who have been acquired by a company or business that is related to a company that opposed the investigation shall not be an affected domestic producer.

“(2) The term ‘Commissioner’ means the Commissioner of the United States Customs Service.


“(4) The term ‘qualifying expenditure’ means an expenditure incurred after the issuance of the antidumping duty finding or order or countervailing duty order in any of the following categories:

“(A) plant;
“(B) equipment;
“(C) research and development;
“(D) personnel training;
“(E) acquisition of technology;
“(F) health care benefits to employees paid for by the employer;
“(G) pension benefits to employees paid for by the employer;
“(H) environmental equipment, training, or technology;
“(I) acquisition of raw materials and other inputs; and
“(J) borrowed working capital or other funds needed to maintain production.

“(c) Disbursement Procedures.—The Commissioner shall prescribe procedures for disbursing the continued dumping or subsidies offset required by this section provided that disbursement shall occur for monies assessed during a fiscal year not later than sixty days after the beginning of the following fiscal year.

“(d) Parties Eligible for Distribution of Antidumping and Countervailing Duties Assessed.—

“(1) The Commission shall forward to the Commissioner within sixty days of the effective date of this section or within sixty days of an antidumping or countervailing duty order issued after the effective date of this section a list of petitioners and companies that indicate support of the petition by inclusion in the petition or supplements thereto, by letter or through questionnaire response. Where no injury test was required or where the Commission’s records do not permit an identification of those in support of a petition the Commission shall consult with the Department of Commerce to determine the identity of the petitioner and those domestic parties who have entered appearances during administrative re-
views conducted by Commerce and sought vigorous enforcement of United States law.

“(2) The Commissioner shall publish in the Federal Register at least thirty days prior to the issuance of payments, a notice of intention to distribute duty assessments, the list of companies eligible based on the list obtained from the Commission, and shall request a certification from each recipient as to—

“(A) desire to receive distribution,

“(B) continued eligibility as an affected domestic producer, and

“(C) the qualifying expenditures incurred since the issuance of the order for which distribution under this section has not previously been made.

“(3) The Commissioner shall distribute all funds (including all interest earned) from assessments received in the completed fiscal year to affected domestic producers based on the affirmative responses to paragraph (2) on a pro rata basis based on new and remaining qualifying expenditures.

“(e) SPECIAL ACCOUNTS.—

“(1) Within fourteen days of the effective date of this provision for outstanding antidumping orders
and findings or for outstanding countervailing duty orders or within fourteen days of the date an antidumping or countervailing duty order takes effect, the Commissioner shall establish in the Treasury a special account with respect to that order or finding.

“(2) The Commissioner shall have deposited into the special accounts all antidumping or countervailing duties, including interest on such duties, that are assessed under the antidumping order or finding or the countervailing duty order with respect to which the account was established since the effective date of this section.

“(3) The monies in a special account shall be available for distribution to the extent of actual assessment (including interest).

“(4) Consistent with the requirements of subsection (c), the Commissioner shall by regulation prescribe the time and manner in which distribution of funds from special accounts will be made.

“(5) The special accounts shall remain in existence until all entries relating to an order which has been terminated are liquidated and duties assessed collected and the Commissioner has provided one last notice of opportunity to obtain distribution pursuant to subsection (c). Amounts not claimed within
90 days of the time of such final distribution shall be returned to the general fund of the Treasury.”

(b) CONFORMING AMENDMENT.—The table of contents for title VII of the Tariff Act of 1930 is amended by inserting the following new item after the item relating to section 753:

“Sec. 754. Continued dumping or subsidy offset.”

(c) EFFECTIVE DATE.—The continued antidumping or subsidy offset shall apply with regard to all assessments made on or after October 1, 1996, on outstanding antidumping findings or orders or countervailing duty orders.