

112TH CONGRESS
2D SESSION

H. R. 4105

To apply the countervailing duty provisions of the Tariff Act of 1930 to nonmarket economy countries, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 29, 2012

Mr. CAMP (for himself, Mr. LEVIN, Mr. BRADY of Texas, Mr. McDERMOTT, Mr. HERGER, Mr. NUNES, Mr. DAVIS of Kentucky, Mr. REICHERT, Mr. BOUSTANY, Mr. ROSKAM, Mr. GERLACH, Mr. BUCHANAN, Mr. SCHOCK, Mr. PAULSEN, Mr. MARCHANT, Mrs. BLACK, Mr. REED, Mr. RANGEL, Mr. LEWIS of Georgia, Mr. THOMPSON of California, Mr. BLUMENAUER, Mr. KIND, Mr. PASCRELL, Mr. SESSIONS, Ms. SLAUGHTER, Ms. BALDWIN, Mr. MICHAUD, Mr. HIGGINS, Mr. WALBERG, Mr. CRITZ, Mr. JOHNSON of Ohio, Mr. KELLY, Mr. MCKINLEY, Mr. RENACCI, Mr. RIBBLE, Mr. STIVERS, Mr. RICHMOND, Mr. DOGGETT, Mr. STARK, Mr. GENE GREEN of Texas, Mr. DONNELLY of Indiana, Mr. OWENS, Mr. CICILLINE, Mr. LIPINSKI, Mr. LOEBSACK, Ms. BERKLEY, Ms. SCHWARTZ, Mr. LATOURETTE, Mr. DINGELL, Mr. CRAWFORD, Mr. CRAVAACK, Mr. ROE of Tennessee, Mr. CONYERS, Mr. PETERSON, Mr. McCOTTER, Mr. GIBBS, Mr. TURNER of Ohio, Mrs. ELLMERS, Mr. HASTINGS of Florida, Mr. SCHILLING, Mr. JOHNSON of Georgia, Mr. HULTGREN, Mr. SHERMAN, Mr. COOPER, Mr. LONG, Mr. MCGOVERN, Mr. MCINTYRE, Mr. NEAL, Mr. CROWLEY, Mr. LARSON of Connecticut, Ms. SUTTON, Ms. SCHAKOWSKY, Mr. VISCLOSKY, Mr. KUCINICH, Mr. RYAN of Ohio, Mr. DEFazio, Ms. NORTON, Mr. ALTMIRE, Mr. CLAY, Mr. DOYLE, Mr. HOLDEN, Ms. LINDA T. SÁNCHEZ of California, Mr. RUSH, Mr. ROSS of Arkansas, Ms. MOORE, Mr. PETERS, Ms. KAPTUR, Mr. MORAN, Mr. SHULER, Ms. BASS of California, Mr. KISSELL, Mr. CARSON of Indiana, Mr. MEEKS, Ms. DELAURO, Mr. TONKO, Mr. BRADY of Pennsylvania, Mr. ELLISON, Mr. KILDEE, Mr. CLARKE of Michigan, Mr. YARMUTH, Mr. PALLONE, and Mr. RAHALL) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To apply the countervailing duty provisions of the Tariff Act of 1930 to nonmarket economy countries, 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 **SECTION 1. APPLICATION OF COUNTERVAILING DUTY PRO-**
 4 **VISIONS TO NONMARKET ECONOMY COUN-**
 5 **TRIES.**

6 (a) IN GENERAL.—Section 701 of the Tariff Act of
 7 1930 (19 U.S.C. 1671) is amended by adding at the end
 8 the following:

9 “(f) APPLICABILITY TO PROCEEDINGS INVOLVING
 10 NONMARKET ECONOMY COUNTRIES.—

11 “(1) IN GENERAL.—Except as provided in para-
 12 graph (2), the merchandise on which countervailing
 13 duties shall be imposed under subsection (a) includes
 14 a class or kind of merchandise imported, or sold (or
 15 likely to be sold) for importation, into the United
 16 States from a nonmarket economy country.

17 “(2) EXCEPTION.—A countervailing duty is not
 18 required to be imposed under subsection (a) on a
 19 class or kind of merchandise imported, or sold (or
 20 likely to be sold) for importation, into the United
 21 States from a nonmarket economy country if the ad-

1 ministering authority is unable to identify and meas-
2 ure subsidies provided by the government of the non-
3 market economy country or a public entity within
4 the territory of the nonmarket economy country be-
5 cause the economy of that country is essentially
6 comprised of a single entity.”.

7 (b) EFFECTIVE DATE.—Subsection (f) of section 701
8 of the Tariff Act of 1930, as added by subsection (a) of
9 this section, applies to—

10 (1) all proceedings initiated under subtitle A of
11 title VII of that Act (19 U.S.C. 1671 et seq.) on or
12 after November 20, 2006;

13 (2) all resulting actions by U.S. Customs and
14 Border Protection; and

15 (3) all civil actions, criminal proceedings, and
16 other proceedings before a Federal court relating to
17 proceedings referred to in paragraph (1) or actions
18 referred to in paragraph (2).

19 **SEC. 2. ADJUSTMENT OF ANTIDUMPING DUTY IN CERTAIN**
20 **PROCEEDINGS RELATING TO IMPORTS FROM**
21 **NONMARKET ECONOMY COUNTRIES.**

22 (a) IN GENERAL.—Section 777A of the Tariff Act
23 of 1930 (19 U.S.C. 1677f–1) is amended by adding at
24 the end the following:

1 “(f) ADJUSTMENT OF ANTIDUMPING DUTY IN CER-
2 TAIN PROCEEDINGS RELATING TO IMPORTS FROM NON-
3 MARKET ECONOMY COUNTRIES.—

4 “(1) IN GENERAL.—If the administering au-
5 thority determines, with respect to a class or kind of
6 merchandise from a nonmarket economy country for
7 which an antidumping duty is determined using nor-
8 mal value pursuant to section 773(c), that—

9 “(A) pursuant to section 701(a)(1), a
10 countervailable subsidy (other than an export
11 subsidy referred to in section 772(c)(1)(C)) has
12 been provided with respect to the class or kind
13 of merchandise,

14 “(B) such countervailable subsidy has been
15 demonstrated to have reduced the average price
16 of imports of the class or kind of merchandise
17 during the relevant period, and

18 “(C) the administering authority can rea-
19 sonably estimate the extent to which the
20 countervailable subsidy referred to in subpara-
21 graph (B), in combination with the use of nor-
22 mal value determined pursuant to section
23 773(c), has increased the weighted average
24 dumping margin for the class or kind of mer-
25 chandise,

1 the administering authority shall, except as provided
2 in paragraph (2), reduce the antidumping duty by
3 the amount of the increase in the weighted average
4 dumping margin estimated by the administering au-
5 thority under subparagraph (C).

6 “(2) MAXIMUM REDUCTION IN ANTIDUMPING
7 DUTY.—The administering authority may not reduce
8 the antidumping duty applicable to a class or kind
9 of merchandise from a nonmarket economy country
10 under this subsection by more than the portion of
11 the countervailing duty rate attributable to a
12 countervailable subsidy that is provided with respect
13 to the class or kind of merchandise and that meets
14 the conditions described in subparagraphs (A), (B),
15 and (C) of paragraph (1).”.

16 (b) EFFECTIVE DATE.—Subsection (f) of section
17 777A of the Tariff Act of 1930, as added by subsection
18 (a) of this section, applies to—

19 (1) all investigations and reviews initiated pur-
20 suant to title VII of that Act (19 U.S.C. 1671 et
21 seq.) on or after the date of the enactment of this
22 Act; and

23 (2) subject to subsection (c) of section 129 of
24 the Uruguay Round Agreements Act (19 U.S.C.
25 3538), all determinations issued under subsection

1 (b)(2) of that section on or after the date of the en-
2 actment of this Act.

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