

105TH CONGRESS
2D SESSION

S. 2281

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

IN THE SENATE OF THE UNITED STATES

JULY 9, 1998

Mr. DEWINE (for himself, Mr. HOLLINGS, Mr. FORD, Mr. DODD, Mr. BYRD, and Mr. ROCKEFELLER) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

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

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. SHORT TITLE.

4 This Act may be cited as the “Continued Dumping
5 or Subsidy Offset Act of 1998”.

6 SEC. 2. FINDINGS OF CONGRESS.

7 Congress makes the following findings:

8 (1) Consistent with the rights of the United
9 States under the World Trade Organization, injuri-
10 ous dumping is to be condemned and actionable sub-

1 sides which cause injury to domestic industries
2 must be effectively neutralized.

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

8 (3) The continued dumping or subsidization of
9 imported product after the issuance of antidumping
10 orders or findings or countervailing duty orders can
11 frustrate the remedial purpose of the laws by pre-
12 venting market prices from returning to fair levels.

13 (4) Where dumping or subsidization continues,
14 domestic producers will be reluctant to reinvest or
15 rehire and may be unable to maintain pension and
16 health care benefits that conditions of fair trade
17 would permit.

18 (5) United States trade laws should be
19 strengthened to see that the remedial purpose is
20 achieved in fact.

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

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

1 **“SEC. 754. CONTINUED DUMPING OR SUBSIDY OFFSET.**

2 “(a) IN GENERAL.—Whenever continued dumping or
3 subsidization is found to exist by the administering au-
4 thority under section 751(a) of this Act or by operation
5 of law, any duties assessed shall be distributed to the af-
6 fected domestic producers for qualifying expenditures on
7 an annual basis. Such disbursement shall be known as the
8 ‘continued dumping or subsidy offset’.

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

10 “(1) The term ‘affected domestic producer’
11 means any manufacturer, producer, or worker rep-
12 resentative that was a petitioner or interested party
13 in support of the petition with respect to which an
14 antidumping duty finding or order or countervailing
15 duty order has been entered and remains in oper-
16 ation. Companies or businesses that have ceased the
17 production of the product covered by the order or
18 finding or who have been acquired by a company or
19 business that is related to a company that opposed
20 the investigation shall not be an affected domestic
21 producer.

22 “(2) The term ‘Commissoner’ means the Com-
23 missioner of the United States Customs Service.

24 “(3) The term ‘Commission’ means the United
25 States International Trade Commission.

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

5 “(A) plant;

6 “(B) equipment;

7 “(C) research and development;

8 “(D) personnel training;

9 “(E) acquisition of technology;

10 “(F) health care benefits to employees paid
11 for by the employer;

12 “(G) pension benefits to employees paid
13 for by the employer; and

14 “(H) environmental equipment, training,
15 or technology.

16 “(c) DISBURSEMENT PROCEDURES.—The Commis-
17 sioner shall prescribe procedures for disbursing the contin-
18 ued dumping or subsidies offset required by this section
19 provided that disbursement shall occur for monies as-
20 sessed during a fiscal year not later than sixty days after
21 the beginning of the following fiscal year.

22 “(d) PARTIES ELIGIBLE FOR DISTRIBUTION OF
23 ANTIDUMPING AND COUNTERVAILING DUTIES As-
24 SESSED.—

1 “(1) The Commission shall forward to the Com-
2 missioner within sixty days of the effective date of
3 this section or within sixty days of an antidumping
4 or countervailing duty order issued after the effec-
5 tive date of this section a list of petitioners and com-
6 panies that indicate support of the petition by letter
7 or through questionnaire response. Where no injury
8 test was required or where the Commission’s records
9 do not permit an identification of those in support
10 of a petition the Commission shall consult with the
11 Department of Commerce to determine the identity
12 of the petitioner and those domestic parties who
13 have entered appearances during administrative re-
14 views conducted by Commerce and sought vigorous
15 enforcement of United States law.

16 “(2) The Commissioner shall publish in the
17 Federal Register at least thirty days prior to the
18 issuance of payments, a notice of intention to dis-
19 tribute duty assessments, the list of companies eligi-
20 ble based on the list obtained from the Commission,
21 and shall request a certification from each recipient
22 as to—

23 “(A) desire to receive distribution,
24 “(B) continued eligibility as an affected
25 domestic producer, and

1 “(C) the qualifying expenditures incurred
2 since the issuance of the order for which dis-
3 tribution under this section has not previously
4 been made.

5 “(3) The Commissioner shall distribute all
6 funds (including all interest earned) from assess-
7 ments received in the completed fiscal year to af-
8 fected domestic producers based on the affirmative
9 responses to paragraph (2) on a pro rata basis based
10 on new and remaining qualifying expenditures.

11 “(e) **SPECIAL ACCOUNTS.**—

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

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

1 “(3) The monies in a special account shall be
2 available for distribution to the extent of actual as-
3 essment (including interest).

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

8 “(5) The special accounts shall remain in exist-
9 ence until all entries relating to an order which has
10 been terminated are liquidated and duties assessed
11 collected and the Commissioner has provided one
12 last notice of opportunity to obtain distribution pur-
13 suant to subsection (c). Amounts not claimed within
14 90 days of the time of such final distribution shall
15 be returned to the general fund of the Treasury.”

16 (b) CONFORMING AMENDMENT.—The table of con-
17 tents for title VII of the Tariff Act of 1930 is amended
18 by inserting the following new item after the item relating
19 to section 753:

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

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

