

106TH CONGRESS  
1ST SESSION

# H. R. 1120

To modify the standards for responding to import surges under section 201 of the Trade Act of 1974, to establish mechanisms for import monitoring and the prevention of circumvention of United States trade laws, and to strengthen the enforcement of United States trade remedy laws.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 1999

Mr. LEVIN (for himself and Mr. HOUGHTON) introduced the following bill;  
which was referred to the Committee on Ways and Means

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## A BILL

To modify the standards for responding to import surges under section 201 of the Trade Act of 1974, to establish mechanisms for import monitoring and the prevention of circumvention of United States trade laws, and to strengthen the enforcement of United States trade remedy laws.

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. AMENDMENTS TO CHAPTER 1 OF TITLE II OF**  
4       **THE TRADE ACT OF 1974.**

5       (a) TEST FOR POSITIVE ADJUSTMENTS TO IMPORT  
6       COMPETITION.—Section 201(a) of the Trade Act of 1974

1 (19 U.S.C. 2251(a)) is amended by striking “be a sub-  
2 stantial cause of serious injury, or the threat thereof,” and  
3 inserting “cause or threaten to cause serious injury”.

4 (b) INVESTIGATIONS AND DETERMINATIONS.—Sec-  
5 tion 202 of such Act (19 U.S.C. 2252) is amended—

6 (1) in subsection (b)(1)(A), by striking “be a  
7 substantial cause of serious injury, or the threat  
8 thereof,” and inserting “cause or threaten to cause  
9 serious injury”;

10 (2) by amending subsection (b)(1)(B) to read  
11 as follows:

12 “(B) For purposes of this section, the term  
13 ‘cause’ refers to a cause that contributes signifi-  
14 cantly to serious injury, or the threat thereof, to the  
15 domestic industry but need not be equal to or great-  
16 er than any other cause.”;

17 (3) in subsection (c)—

18 (A) by amending paragraph (1)(A) to read  
19 as follows:

20 “(A) with respect to serious injury—

21 “(i) change in the level of sales, pro-  
22 duction, productivity, capacity utilization,  
23 profits and losses, and employment,

24 “(ii) the significant idling of produc-  
25 tive facilities in the domestic industry,

1 “(iii) the inability of a significant  
2 number of firms to carry out domestic pro-  
3 duction operations at a reasonable level of  
4 profit, and

5 “(iv) significant unemployment or  
6 underemployment within the domestic in-  
7 dustry;”;

8 (B) in paragraph (1)(B)—

9 (i) in clause (iii) by striking “; and”  
10 and inserting “, and”; and

11 (ii) by inserting after clause (iii) the  
12 following:

13 “(iv) foreign production capacity, for-  
14 eign inventories, the level of demand in  
15 third country markets, and the availability  
16 of other export markets to absorb any ad-  
17 ditional exports; and”;

18 (C) by amending paragraph (1)(C) to read  
19 as follows:

20 “(C) with respect to cause—

21 “(i) the rate, amount, and timing of  
22 the increase in imports of the product con-  
23 cerned in absolute and relative terms, in-  
24 cluding whether there has been a substan-

1                    tial increase in imports over a short period  
2                    of time, and

3                    “(ii) the share of the domestic market  
4                    taken by increased imports.”;

5                    (D) by redesignating paragraphs (3)  
6                    through (6) as paragraphs (5) through (8), re-  
7                    spectively;

8                    (E) by striking paragraph (2) and insert-  
9                    ing the following:

10                   “(2) In making determinations under para-  
11                   graph (1)(A) and (B), if domestic producers inter-  
12                   nally transfer significant production of the article  
13                   like or directly competitive with the imported article  
14                   for the production of a downstream article and sell  
15                   significant production of the article like or directly  
16                   competitive with the imported article in the mer-  
17                   chant market, and the Commission finds that—

18                   “(A) the article like or directly competitive  
19                   with the imported article produced that is inter-  
20                   nally transferred for processing into that down-  
21                   stream article does not enter the merchant mar-  
22                   ket for the article like or directly competitive  
23                   with the imported article,

24                   “(B) the article like or directly competitive  
25                   with the imported article is the predominant

1 material input in the production of that down-  
2 stream article, and

3 “(C) the production of the article like or  
4 directly competitive with the imported article  
5 sold in the merchant market is not generally  
6 used in the production of the downstream  
7 article,

8 then the Commission, in determining market share  
9 and the factors affecting financial performance set  
10 forth in paragraph (1)(A) and (B), shall focus pri-  
11 marily on the merchant market for the article like  
12 or directly competitive with the imported article.

13 “(3) In making determinations under sub-  
14 section (b), the Commission shall—

15 “(A) consider the condition of the domestic  
16 industry over the course of the relevant busi-  
17 ness cycle, but may not aggregate the causes of  
18 declining demand associated with a recession or  
19 economic downturn in the United States econ-  
20 omy into a single cause of serious injury or  
21 threat of injury; and

22 “(B) examine factors other than imports  
23 which may cause or threaten to cause serious  
24 injury to the domestic industry.

1 The Commission shall include the results of its ex-  
2 amination under subparagraph (B) in the report  
3 submitted by the Commission to the President under  
4 subsection (e).

5 “(4) In making determinations under sub-  
6 section (b), the Commission shall consider whether  
7 any change in the volume of imports that has oc-  
8 curred since a petition under subsection (a) was filed  
9 or a request under subsection (b) was made is re-  
10 lated to the pendency of the investigation, and if so,  
11 the Commission may reduce the weight accorded to  
12 the data for the period after the petition under sub-  
13 section (a) was filed or the request under subsection  
14 (b) was made in making its determination of serious  
15 injury, or the threat thereof.”; and

16 (F) in paragraph (5), as so redesignated—

17 (i) by striking “and (B)” and insert-  
18 ing “, (B), and (C)”; and

19 (ii) by striking “be a substantial cause  
20 of serious injury, or the threat thereof,”  
21 and inserting “cause or threaten to cause  
22 serious injury”;

23 (4) in subsection (d)—

24 (A) in paragraph (1)(A)(ii), by striking  
25 “be, or likely to be a substantial cause of seri-

1           ous injury, or the threat thereof,” and inserting  
2           “cause, or be likely to cause, or threaten to  
3           cause, or be likely to threaten to cause, serious  
4           injury”;

5           (B) in paragraph (1)(C), in the matter fol-  
6           lowing clause (ii), by striking “a substantial  
7           cause of serious injury, or the threat thereof,”  
8           and inserting “causing or threatening to cause  
9           serious injury”;

10          (C) by amending paragraph (2)(A) to read  
11          as follows:

12          “(2)(A) When a petition filed under subsection  
13          (a) or a request filed under subsection (b) alleges  
14          that critical circumstances exist and requests that  
15          provisional relief be provided under this subsection  
16          with respect to imports of the article identified in  
17          the petition or request, the Commission shall, not  
18          later than 45 days after the petition or request is  
19          filed, determine, on the basis of available informa-  
20          tion, whether—

21               “(i) there is clear evidence that increased  
22               imports (either actual or relative to domestic  
23               production) of the article are causing or threat-  
24               ening to cause serious injury to the domestic in-

dustry producing an article like or directly competitive with the imported article; and

“(ii) delay in taking action under this chapter would cause damage to that industry that would be difficult to repair.

In making the evaluation under clause (ii), the Commission should consider, among other factors that it considers relevant, the timing and volume of the imports, including whether there has been a substantial increase in imports over a short period of time, and any other circumstances indicating that delay in taking action under this chapter would cause damage to the industry that would be difficult to repair.”; and

(D) in paragraph (2)(D), by striking “30” and inserting “20”.

(c) PRESIDENTIAL DETERMINATIONS.—

(1) ACTION BY PRESIDENT.—Section 203(a) of the Trade Act of 1974 (19 U.S.C. 2253(a)) is amended—

(A) in paragraph (1)(A), by striking “and provide greater economic and social benefits than costs” and inserting “and will not have an adverse impact on the United States substantially out of proportion to the benefits of such action”;



(B) in paragraph (2)(F), by striking the semicolon at the end of clause (iii) and inserting the following:

“except that the President shall give substantially greater weight to the factors set out in clause (i) than to those set out in clauses (ii) and (iii);”; and

(C) by amending paragraph (2)(I) to read as follows:

“(I) the potential for harm to the national security of the United States; and”.

(2) IMPLEMENTATION OF ACTION RECOMMENDED BY COMMISSION.—(A) Section 203(c) of the Trade Act of 1974 (19 U.S.C. 2253(c)) is amended by striking “90” and inserting “60”.

(B) Section 152(c)(1) of the Trade Act of 1974 (19 U.S.C. 2192(c)(1)) is amended by striking “not counting any day which is excluded under section 154(b),” and inserting “counting all calendar days in the case of a resolution described in subsection (a)(1)(A), and not counting any day which is excluded under section 154(b) in the case of a resolution described in subsection (a)(1)(B),”.

(d) CONFORMING AMENDMENTS.—

1           (1) Section 203(e)(6)(B) of the Trade Act of  
2           1974 (19 U.S.C. 2253(e)(6)(B)) is amended by  
3           striking “substantially”.

4           (2) Section 264(c) of the Trade Act of 1974  
5           (19 U.S.C. 2354(c)) is amended by striking “a sub-  
6           stantial cause of serious injury or threat thereof”  
7           and inserting “causing or threatening to cause seri-  
8           ous injury”.

9           (3) Section 154(b) of the Trade Act of 1974  
10          (19 U.S.C. 2194(b)) is amended by striking the  
11          matter that precedes paragraph (1) and inserting  
12          the following:

13          “(b) The 60-day period referred to in section 203(c)  
14          and the 90-day period referred to in section 407(c)(2)  
15          shall be computed by excluding—”.

16       **SEC. 2. AMENDMENTS TO SECTION 332 OF THE TARIFF ACT**  
17                               **OF 1930.**

18          Section 332 of the Tariff Act of 1930 (19 U.S.C.  
19          1332) is amended by adding at the end the following:

20          “(h)(1) Any entity, including a trade association,  
21          firm, certified or recognized union, or group of workers,  
22          which is representative of a domestic industry that pro-  
23          duces an article that is like or directly competitive with  
24          an imported article, may file a request with the President

1 pursuant to paragraph (2) for the monitoring of imports  
2 of such article under subsection (g).

3 “(2) If the request filed under paragraph (1) alleges  
4 that an article is being imported into the United States  
5 in such increased quantities as to cause serious injury, or  
6 threat thereof, to a domestic industry, the President, with-  
7 in 45 days after receiving the request, shall determine if  
8 monitoring is appropriate.

9 “(3) If the determination under paragraph (2) is af-  
10 firmative, the President shall request, under subsection  
11 (g), the Commission to monitor and investigate the im-  
12 ports concerned for a period not to exceed 2 years.”.

13 **SEC. 3. EARLY RELEASE OF IMPORT DATA.**

14 In order to facilitate the early identification of poten-  
15 tially disruptive import surges, the Director of the Office  
16 of Management and Budget may grant an exception to  
17 the publication dates established for the release of data  
18 on United States international trade in goods and services  
19 in order to permit public access to preliminary inter-  
20 national trade import data, if the Director notifies the  
21 Congress of the early release of the data.

1 **SEC. 4. ESTABLISHMENT OF IMPORT MONITORING CEN-**  
2 **TER.**

3 Section 301 of the Customs Procedural Reform and  
4 Simplification Act of 1978 (19 U.S.C. 2075) is amended  
5 by adding at the end the following:

6 “(h) STEEL IMPORT MONITORING AND ENFORCE-  
7 MENT SUPPORT CENTER.—There are authorized to be ap-  
8 propriated for a Steel Import Monitoring and Enforce-  
9 ment Support Center in the United States Customs Serv-  
10 ice, in addition to amounts otherwise available for such  
11 purposes, \$250,000 for fiscal year 1999, and \$1,000,000  
12 for fiscal year 2000.”.

13 **SEC. 5. AMENDMENT TO TARIFF ACT OF 1930.**

14 Section 484(f) of the Tariff Act of 1930 (19 U.S.C.  
15 1484(f)) is amended—

16 (1) by striking “The Secretary” and inserting  
17 “(1) The Secretary”; and

18 (2) by adding at the end the following:

19 “(2) The Secretary of the Treasury, the Secretary of  
20 Commerce, and the International Trade Commission shall  
21 establish a suffix to the Harmonized Tariff Schedule of  
22 the United States for merchandise that is subject to coun-  
23 tervening duty orders or antidumping duty orders under  
24 title VII of this Act, or subject to actions by the President  
25 under chapter 1 of title II, or section 406, of the Trade  
26 Act of 1974.”.

1   **SEC. 6. PRODUCT MONITORING.**

2           (a) IN GENERAL.—The Secretary of Commerce shall  
3   monitor imports on a monthly basis for import surges and  
4   potential unfair trade through the year 2000. Products to  
5   be monitored shall be determined by the Secretary of Com-  
6   merce based on the import surge data compiled by the  
7   Secretary, but shall include, at a minimum, steel mill  
8   products and other import-sensitive products identified by  
9   United States industries or entities representative of a  
10   United States industry that meet the necessary criteria  
11   established by the Secretary. In determining whether to  
12   monitor imports of a specific product, the Secretary shall  
13   consider the percentage increase in imports, the volume  
14   or value of imports, as appropriate, the level of import  
15   penetration, and any other factors the Secretary considers  
16   necessary.

17          (b) REPORTING REQUIREMENTS.—Within 30 days  
18   after the release of the official December import statistics  
19   for calendar year 1999 and for calendar year 2000, the  
20   Secretary of Commerce shall submit a report to the Con-  
21   gress summarizing the monitoring activities under this  
22   section for that calendar year and identifying products to  
23   be monitored in the next calendar year. In addition, in  
24   the report to the Congress covering calendar year 1999,  
25   the Secretary of Commerce shall determine whether trade  
26   conditions during the calendar year 1999 merit extending

1 the import monitoring program beyond the program's  
2 scheduled expiration at the end of calendar year 2000.

3 **SEC. 7. ITC INVESTIGATION OF ANTICOMPETITIVE PRAC-**  
4 **TICES IN INTERNATIONAL STEEL TRADE.**

5 (a) IN GENERAL.—Within 30 days after the date of  
6 the enactment of this Act, the United States International  
7 Trade Commission shall commence an investigation under  
8 section 332 of the Tariff Act of 1930—

9 (1) to collect information on anticompetitive  
10 practices in international steel trade;

11 (2) to assess the adverse effects of such prac-  
12 tices on United States producers, workers, and con-  
13 sumers;

14 (3) to collect information on import licensing  
15 arrangements of other members of the World Trade  
16 Organization; and

17 (4) to report to the Committee on Ways and  
18 Means of the House of Representatives, the Com-  
19 mittee on Finance of the Senate, and the United  
20 States Trade Representative on its findings within 1  
21 year after the date of the enactment of this Act.

22 (b) INCLUSION IN NATIONAL TRADE ESTIMATE RE-  
23 PORT.—The United States Trade Representatives shall in-  
24 clude the findings of the International Trade Commission  
25 under subsection (a) in a special section of the report sub-

mitted under section 181(b) of the Trade Act of 1974 after the 1-year period beginning on the date of the enactment of this Act, in which the Trade Representative shall identify and explain any anticompetitive practices in international steel trade, evaluate the compatibility of import licensing programs with obligations under the World Trade Organization, and propose steps to be taken to address anticompetitive practices and practices inconsistent with the World Trade Organization.

(c) DEFINITIONS.—For purposes of this section, the term “anticompetitive practices in international steel trade” means—

(1) monopolies or cartels, whether or not sanctioned by government authorities, which restrict the output, delivery, or pricing of steel products;

(2) agreements between steel producers, whether or not sanctioned by government authorities, to restrict the flow of steel products or limit price competition in international steel trade; and

(3) coercion or threats by manufacturers to distributors or consumers which have the effect of restricting imports of steel products.

**SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

(a) DEPARTMENT OF COMMERCE.—(1) There are authorized to be appropriated to the Department of Com-

1 merce, in addition to the amounts otherwise available for  
2 such purposes, \$1,200,000 for fiscal year 1999 and  
3 \$5,200,000 for fiscal year 2000 for additional staff to con-  
4 duct import monitoring, subsidy enforcement, and prompt  
5 antidumping investigations under subtitle B of title VII  
6 of the Tariff Act of 1930.

7 (b) USTR.—There is authorized to be appropriated  
8 to the Office of the United States Trade Representative,  
9 in addition to amounts otherwise available for such pur-  
10 poses, \$250,000 for fiscal year 1999 and \$750,000 for fis-  
11 cal year 2000 for additional staff—

12 (1) to promote and defend policy with respect  
13 to United States import safeguards and counter-  
14 vailing or antidumping duty actions if challenged in  
15 the World Trade Organization; and

16 (2) to identify foreign trade-distorting measures  
17 and develop policies and responsive actions to ad-  
18 dress them.

19 (c) ITC.—There are authorized to be appropriated  
20 to the Office of the United States International Trade  
21 Commission, in addition to amounts otherwise available  
22 for such purposes, such sums as may be necessary for fis-  
23 cal year 1999, and such sums as may be necessary for  
24 each of fiscal years 2000 through 2002, for additional



- 1 staff to make prompt determinations under section 202
- 2 (b) and (d) of the Trade Act of 1974.

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