

106TH CONGRESS
1ST SESSION

S. 61

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

IN THE SENATE OF THE UNITED STATES

JANUARY 19, 1999

Mr. DEWINE (for himself, Mr. HOLLINGS, Mr. ABRAHAM, Mr. SANTORUM, Mr. SPECTER, Mr. BYRD, Mr. HUTCHINSON, and Mr. VOINOVICH) 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 and Subsidy Offset Act of 1999”.

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-

1 ous dumping is to be condemned and actionable sub-
2 sidies which cause injury to domestic industries
3 must be effectively neutralized.

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

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

14 (4) Where dumping or subsidization continues,
15 domestic producers will be reluctant to reinvest or
16 rehire and may be unable to maintain pension and
17 health care benefits that conditions of fair trade
18 would permit. Similarly, small businesses and Amer-
19 ican farmers and ranchers may be unable to pay
20 down accumulated debt, to obtain working capital,
21 or to otherwise remain viable.

22 (5) United States trade laws should be
23 strengthened to see that the remedial purpose of
24 those laws is achieved.

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

2 (a) IN GENERAL.—Title VII of the Tariff Act of
3 1930 (19 U.S.C. 1671 et seq.) is amended by inserting
4 after section 753 following new section:

5 **“SEC. 754. CONTINUED DUMPING AND SUBSIDY OFFSET.**

6 “(a) IN GENERAL.—Duties assessed pursuant to a
7 countervailing duty order, an antidumping duty order, or
8 a finding under the Antidumping Act of 1921 shall be dis-
9 tributed on an annual basis under this section to the af-
10 fected domestic producers for qualifying expenditures.
11 Such distribution shall be known as the ‘continued dump-
12 ing and subsidy offset’.

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

14 “(1) AFFECTED DOMESTIC PRODUCER.—The
15 term ‘affected domestic producer’ means any manu-
16 facturer, producer, farmer, rancher, or worker rep-
17 resentative (including associations of such persons)
18 that—

19 “(A) was a petitioner or interested party in
20 support of the petition with respect to which an
21 antidumping duty order, a finding under the
22 Antidumping Act of 1921, or a countervailing
23 duty order has been entered, and

24 “(B) remains in operation.

25 Companies, businesses, or persons that have ceased
26 the production of the product covered by the order

1 or finding or who have been acquired by a company
 2 or business that is related to a company that op-
 3 posed the investigation shall not be an affected do-
 4 mestic producer.

5 “(2) COMMISSIONER.—The term ‘Commis-
 6 sioner’ means the Commissioner of Customs.

7 “(3) COMMISSION.—The term ‘Commission’
 8 means the United States International Trade Com-
 9 mission.

10 “(4) QUALIFYING EXPENDITURE.—The term
 11 ‘qualifying expenditure’ means an expenditure in-
 12 curred after the issuance of the antidumping duty
 13 finding or order or countervailing duty order in any
 14 of the following categories:

15 “(A) Plant.

16 “(B) Equipment.

17 “(C) Research and development.

18 “(D) Personnel training.

19 “(E) Acquisition of technology.

20 “(F) Health care benefits to employees
 21 paid for by the employer.

22 “(G) Pension benefits to employees paid
 23 for by the employer.

24 “(H) Environmental equipment, training,
 25 or technology.

1 “(I) Acquisition of raw materials and other
2 inputs.

3 “(J) Borrowed working capital or other
4 funds needed to maintain production.

5 “(5) RELATED TO.—A company, business, or
6 person shall be considered to be ‘related to’ another
7 company, business, or person if—

8 “(A) the company, business, or person di-
9 rectly or indirectly controls or is controlled by
10 the other company, business, or person,

11 “(B) a third party directly or indirectly
12 controls both companies, businesses, or persons,

13 “(C) both companies, businesses, or per-
14 sons directly or indirectly control a third party
15 and there is reason to believe that the relation-
16 ship causes the first company, business, or per-
17 sons to act differently than a nonrelated party.

18 For purposes of this paragraph, a party shall be
19 considered to directly or indirectly control another
20 party if the party is legally or operationally in a po-
21 sition to exercise restraint or direction over the other
22 party.

23 “(c) DISTRIBUTION PROCEDURES.—The Commis-
24 sioner shall prescribe procedures for distribution of the
25 continued dumping or subsidies offset required by this sec-

1 tion. Such distribution shall be made not later than 60
 2 days after the first day of a fiscal year from duties as-
 3 sessed during the preceding fiscal year.

4 “(d) PARTIES ELIGIBLE FOR DISTRIBUTION OF
 5 ANTIDUMPING AND COUNTERVAILING DUTIES AS-
 6 SESSED.—

7 “(1) LIST OF AFFECTED DOMESTIC PRODUC-
 8 ERS.—The Commission shall forward to the Com-
 9 missioner within 60 days after the effective date of
 10 this section in the case of orders or findings in effect
 11 on such effective date, or in any other case, within
 12 60 days after the date an antidumping or counter-
 13 vailing duty order or finding is issued, a list of peti-
 14 tioners and persons with respect to each order and
 15 finding and a list of persons that indicate support of
 16 the petition by letter or through questionnaire re-
 17 sponse. In those cases in which a determination of
 18 injury was not required or the Commission’s records
 19 do not permit an identification of those in support
 20 of a petition, the Commission shall consult with the
 21 administering authority to determine the identity of
 22 the petitioner and those domestic parties who have
 23 entered appearances during administrative reviews
 24 conducted by the administering authority under sec-
 25 tion 751.

1 “(2) PUBLICATION OF LIST; CERTIFICATION.—

2 The Commissioner shall publish in the Federal Reg-
 3 ister at least 30 days before the distribution of a
 4 continued dumping and subsidy offset, a notice of
 5 intention to distribute the offset and the list of af-
 6 fected domestic producers potentially eligible for the
 7 distribution based on the list obtained from the
 8 Commission under paragraph (1). The Commis-
 9 sioner shall request a certification from each poten-
 10 tially eligible affected domestic producer—

11 “(A) that the producer desires to receive a
 12 distribution;

13 “(B) that the producer is eligible to receive
 14 the distribution as an affected domestic pro-
 15 ducer; and

16 “(C) the qualifying expenditures incurred
 17 by the producer since the issuance of the order
 18 or finding for which distribution under this sec-
 19 tion has not previously been made.

20 “(3) DISTRIBUTION OF FUNDS.—The Commis-
 21 sioner shall distribute all funds (including all inter-
 22 est earned on the funds) from assessed duties re-
 23 ceived in the preceding fiscal year to affected domes-
 24 tic producers based on the certifications described in
 25 paragraph (2). The distributions shall be made on a

1 pro rata basis based on new and remaining qualify-
2 ing expenditures.

3 “(e) SPECIAL ACCOUNTS.—

4 “(1) ESTABLISHMENTS.—Within 14 days after
5 the effective date of this section, with respect to
6 antidumping duty orders and findings and counter-
7 vailing duty orders in effect on the effective date of
8 this section, and within 14 days after the date an
9 antidumping duty order or finding or countervailing
10 duty order issued after the effective date takes ef-
11 fect, the Commissioner shall establish in the Treas-
12 ury of the United States a special account with re-
13 spect to each such order or finding.

14 “(2) DEPOSITS INTO ACCOUNTS.—The Commis-
15 sioner shall deposit into the special accounts, all
16 antidumping or countervailing duties (including in-
17 terest earned on such duties) that are assessed after
18 the effective date of this section under the anti-
19 dumping order or finding or the countervailing duty
20 order with respect to which the account was estab-
21 lished.

22 “(3) TIME AND MANNER OF DISTRIBUTIONS.—
23 Consistent with the requirements of subsections (c)
24 and (d), the Commissioner shall by regulation pre-

1 scribe the time and manner in which distribution of
2 the funds in a special account shall made.

3 “(4) TERMINATION.—A special account shall
4 terminate after—

5 “(a) the order or finding with respect to
6 which the account was established has termi-
7 nated;

8 “(B) all entries relating to the order or
9 finding are liquidated and duties assessed col-
10 lected;

11 “(C) the Commissioner has provided notice
12 and a final opportunity to obtain distribution
13 pursuant to subsection (c); and

14 “(D) 90 days has elapsed from the date of
15 the notice described in subparagraph (C).

16 Amounts not claimed within 90 days of the date of
17 the notice described in subparagraph (C), shall be
18 deposited into the general fund of the Treasury.”.

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

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

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply with respect to all antidumping

1 and countervailing duty assessments made on or after Oc-
2 tober 1, 1996.

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