

108TH CONGRESS  
1ST SESSION

# H. R. 2736

To amend title VII of the Tariff Act of 1930 with respect to determining certain antidumping calculations for merchandise from former nonmarket economy countries.

---

## IN THE HOUSE OF REPRESENTATIVES

JULY 15, 2003

Mr. LEVIN introduced the following bill; which was referred to the Committee on Ways and Means

---

## A BILL

To amend title VII of the Tariff Act of 1930 with respect to determining certain antidumping calculations for merchandise from former nonmarket economy countries.

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 “Market-Based Anti-  
5       dumping Calculations Act”.

6       **SEC. 2. SPECIAL VALUATION RULES FOR FORMER NON-**  
7       **MARKET ECONOMY COUNTRIES.**

8       Section 773 of the Tariff Act of 1930 (19 U.S.C.  
9       1677b) is amended by adding at the end the following:

1 “(g) SPECIAL VALUATION RULES FOR FORMER NON-  
2 MARKET ECONOMY COUNTRIES.—

3 “(1) TREATMENT OF PRICES OR COSTS DIS-  
4 TORTED BY NONMARKET FORCES.—

5 “(A) IN GENERAL.—If the administering  
6 authority determines that the prices or costs of  
7 a good or service within a country formerly  
8 classified as a nonmarket economy country are  
9 not determined by market-based forces of de-  
10 mand and supply, so that accepting such prices  
11 or costs would distort in any material way the  
12 determination of normal value or cost of pro-  
13 duction of the subject merchandise, then the  
14 administering authority shall disregard those  
15 prices or costs and instead employ the values of  
16 the good or service in another market economy  
17 country or countries considered to be appro-  
18 priate by the administering authority.

19 “(B) FACTORS REGARDING MARKET-BASED  
20 FORCES.—The administering authority shall de-  
21 termine that the prices or costs of a good or  
22 service are not determined by market-based  
23 forces of demand and supply under subpara-  
24 graph (A) if any of the following factors are  
25 present:

1 “(i) The prices or costs in question  
2 are extensively controlled by a national, re-  
3 gional, or local government.

4 “(ii) The prices or costs in question  
5 are stable over a significant period of time  
6 and no market-based explanation for that  
7 stability is demonstrated.

8 “(iii) The prices or costs in question  
9 are subject to monopolistic or  
10 monopsonistic forces.

11 “(iv) The prices or costs in question  
12 materially differ from prices charged by  
13 the same or a related supplier to a pur-  
14 chaser in another market economy country.

15 “(v) Such other factors as the admin-  
16 istering authority considers appropriate.

17 “(2) DETERMINATIONS PURSUANT TO SUB-  
18 SECTION (c).—

19 “(A) TOTAL COST OF MANUFACTURING  
20 SUBSTANTIALLY DETERMINED OUTSIDE MAR-  
21 KET FORCES.—If the total cost of manufac-  
22 turing of the subject merchandise calculated by  
23 the administering authority is substantially de-  
24 termined by values derived from prices or costs  
25 outside the home market under paragraph (1),

1 then the administering authority shall deem the  
2 subject merchandise to have been produced out-  
3 side of market-based forces of supply and de-  
4 mand, and shall determine the normal value of  
5 the subject merchandise pursuant to subsection  
6 (c).

7 “(B) UNRELIABLE FINANCIAL DATA.—If  
8 in making a determination of normal value  
9 under this section the administering authority  
10 determines that the financial statements of a  
11 company within a country formerly classified as  
12 a nonmarket economy country are not in ac-  
13 cordance with that country’s generally accepted  
14 accounting principles, are unreliable, or other-  
15 wise do not reasonably reflect the costs associ-  
16 ated with the production and sale of the subject  
17 merchandise, then the administering authority  
18 shall determine the normal value of the subject  
19 merchandise pursuant to subsection (c).”.

20 **SEC. 3. EFFECTIVE DATE.**

21 The amendments made by section 2 shall apply to  
22 proceedings under subtitle A, B, or C of title VII of the  
23 Tariff Act of 1930 that are initiated on or after the date  
24 of the enactment of this Act.

○