

110TH CONGRESS  
2D SESSION

# S. 3394

To prevent the undermining of the judgments of courts of the United States  
by foreign courts, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

JULY 31, 2008

Mr. SUNUNU (for himself and Mr. GREGG) introduced the following bill; which  
was read twice and referred to the Committee on Finance

---

## A BILL

To prevent the undermining of the judgments of courts of  
the United States by foreign courts, 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. UNENFORCEABILITY OF CERTAIN FOREIGN**  
4       **JUDGMENTS.**

5       (a) DEFINITIONS.—In this Act:

6           (1) ANTIDUMPING ACT OF 1916.—The term  
7       “Antidumping Act of 1916” means section 801 of  
8       the Act entitled “An Act to increase the revenue,  
9       and for other purposes”, approved September 8,  
10      1916 (39 Stat. 798, chapter 463), and repealed by

1       section 2006 of the Miscellaneous Trade and Tech-  
2       nical Corrections Act of 2004 (Public Law 108–429;  
3       118 Stat. 2597).

4               (2) FOREIGN DEFENDANT.—The term “foreign  
5       defendant” means a person against which a court of  
6       the United States has entered a final judgment  
7       under the Antidumping Act of 1916.

8               (3) UNITED STATES PLAINTIFF.—The term  
9       “United States plaintiff” means a person that ob-  
10       tains damages pursuant to a final judgment of a  
11       court of the United States under the Antidumping  
12       Act of 1916.

13       (b) UNENFORCEABILITY OF CERTAIN FOREIGN  
14       JUDGMENTS.—A judgment of a foreign court or agency  
15       under a foreign statute described in subsection (c) that  
16       requires a United States plaintiff or an affiliate of a  
17       United States plaintiff to pay damages to a foreign de-  
18       fendant may not be enforced by any Federal or State  
19       agency, department, or court.

20       (c) FOREIGN STATUTE DESCRIBED.—A foreign stat-  
21       ute described in this subsection is a statute of a foreign  
22       country that has the effect of nullifying all or part of a  
23       final judgment of a court of the United States under the  
24       Antidumping Act of 1916 by enabling a foreign defendant  
25       that has paid damages pursuant to such judgment to re-

1 cover any portion of such damages from the United States  
2 plaintiff or an affiliate of the United States plaintiff.

3 (d) CIVIL ACTION FOR DAMAGES.—

4 (1) IN GENERAL.—A United States plaintiff or  
5 an affiliate of a United States plaintiff held liable,  
6 or required to forfeit or pay damages, pursuant to  
7 a foreign judgment described in subsection (b) may  
8 file a civil action against the foreign defendant that  
9 obtained damages pursuant to the foreign judgment.  
10 The action may be filed in the district court of the  
11 United States that issued the final judgment with  
12 respect to the United States plaintiff under the  
13 Antidumping Act of 1916.

14 (2) DAMAGES.—A United States plaintiff or an  
15 affiliate of a United States plaintiff that files a civil  
16 action under paragraph (1) shall be entitled to re-  
17 cover—

18 (A) an amount equal to the damages ob-  
19 tained by the foreign defendant from the  
20 United States plaintiff or an affiliate of a  
21 United States plaintiff pursuant to the foreign  
22 judgment, including any interest; and

23 (B) any related costs, including reasonable  
24 attorneys' fees.

1           (e) EFFECTIVE DATE.—This section shall apply to  
2 with respect to foreign judgments described in subsection  
3 (b) entered on or after December 3, 2004.

○