

111TH CONGRESS
1ST SESSION

H. R. 471

To amend the Trade Act of 1974 to provide for a limitation on presidential discretion with respect to actions to address market disruption.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 13, 2009

Mr. ALTMIRE (for himself and Mr. TIM MURPHY of Pennsylvania) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Trade Act of 1974 to provide for a limitation on presidential discretion with respect to actions to address market disruption.

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 “Supporting America’s
5 Manufacturers Act”.

1 **SEC. 2. STANDARD FOR PRESIDENTIAL ACTION ON ITC**
2 **FINDING OF MARKET DISRUPTION.**

3 Section 421 of the Trade Act of 1974 (19 U.S.C.
4 2451) is amended—

5 (1) in subsection (a)—

6 (A) by inserting “any” before “increased
7 duties”; and

8 (B) by striking “, to the extent and for
9 such period” and all that follows to the end pe-
10 riod and inserting “that are recommended by
11 the International Trade Commission.”;

12 (2) in subsection (e), in the second sentence, by
13 striking “agreed upon by either group” and all that
14 follows to the end period and inserting “shall be con-
15 sidered an affirmative determination under sub-
16 section (b).”;

17 (3) in subsection (f)—

18 (A) in the heading, by striking “ON PRO-
19 POSED REMEDIES” and inserting “FOR RE-
20 LIEF”;

21 (B) in the first sentence—

22 (i) by striking “the President or
23 Trade Representative may consider as”
24 and inserting “is to be considered”; and

1 (ii) by striking “the Commission shall
2 propose” and inserting “the Commission
3 shall recommend”; and

4 (C) in the second sentence, by striking
5 “proposed action” and inserting “recommended
6 action”;

7 (4) in subsection (g)(2)(B)—

8 (A) by striking “or may be considered by
9 the President or the Trade Representative as”
10 and inserting “or if the determination is consid-
11 ered to be”; and

12 (B) by striking “on proposed remedies”
13 and inserting “for relief”;

14 (5) in subsection (h)—

15 (A) in the heading, by striking “PROPOSED
16 MEASURE AND RECOMMENDATION TO THE
17 PRESIDENT” and inserting “RECOMMENDED
18 RELIEF AND REPORT BY TRADE REPRESENTA-
19 TIVE”;

20 (B) in paragraph (1)—

21 (i) by striking “measure proposed by
22 the Trade Representative to be taken pur-
23 suant to subsection (a)” and inserting “re-
24 lief recommended by the Commission
25 under subsection (f)”; and

1 (ii) by striking “proposed measure”
2 and inserting “recommended relief”;

3 (C) in paragraph (2), by striking “on the
4 measure proposed by the Trade Representative”
5 and all that follows to the end period and in-
6 serting “, shall transmit a report to the Presi-
7 dent recommending what action to take under
8 subsection (k).”; and

9 (D) by adding at the end the following new
10 paragraph:

11 “(3) The Trade Representative, after submitting a
12 report to the President under paragraph (2), shall prompt-
13 ly make the report available to the public, excluding any
14 proprietary or confidential information. The Trade Rep-
15 resentative shall publish a summary of the report in the
16 Federal Register.”;

17 (6) in subsection (i)—

18 (A) in the flush sentence at the end of
19 paragraph (1), by striking “agreed upon by ei-
20 ther group” and all that follows to the end pe-
21 riod and inserting “shall be considered an af-
22 firmative determination of the Commission.”;
23 and

24 (B) by striking paragraphs (2), (3), and
25 (4) and inserting the following:

1 “(2) On the date on which the Commission completes
2 its determinations under paragraph (1), the Commission
3 shall transmit a report on the determinations to the Presi-
4 dent and the Trade Representative, including the reasons
5 for its determinations. If the determinations under para-
6 graph (1) are affirmative or if the determinations are con-
7 sidered to be affirmative under paragraph (1), the Com-
8 mission shall include in its report its recommendations on
9 provisional relief to be taken to prevent or remedy the
10 market disruption. Only those members of the Commission
11 who agreed to the affirmative determinations under para-
12 graph (1) are eligible to vote on the recommended provi-
13 sional relief to prevent or remedy market disruption. Mem-
14 bers of the Commission who did not agree to the affirma-
15 tive determinations may submit, in the report, dissenting
16 or separate views regarding the determinations and any
17 recommendation of provisional relief referred to in this
18 paragraph.

19 “(3) The provisional relief referred to in paragraph
20 (2) may include—

21 “(A) the imposition of or increase in any duty;

22 “(B) any modification to, or imposition of, any
23 quantitative restriction on the importation of any ar-
24 ticle into the United States; or

1 “(C) any combination of actions under subpara-
2 graph (A) or (B).

3 “(4) If the determinations under paragraph (1) are
4 affirmative or if the determinations are considered to be
5 affirmative under paragraph (1), the Trade Representa-
6 tive shall, within 10 days after receipt of the Commission’s
7 report, transmit a report to the President recommending
8 what action to take with respect to provisional relief under
9 subsection (k).

10 “(5)(A) The President shall proclaim any provisional
11 relief recommended by the Commission not later than 10
12 days after the date on which the President receives the
13 report described in paragraph (4) from the Trade Rep-
14 resentative.

15 “(B) Any provisional relief proclaimed by the Presi-
16 dent pursuant to a determination of critical circumstances
17 shall remain in effect for a period of not more than 200
18 days.

19 “(C) Provisional relief shall cease to apply upon the
20 effective date of relief proclaimed under subsection (a),
21 upon a decision by the President not to provide such relief
22 under subsection (k), or upon a negative determination by
23 the Commission under subsection (b).”;

24 (7) in subsection (j)—

1 (A) in paragraph (1), by striking “which
2 the Trade Representative considers to be” and
3 inserting “that is considered to be”; and

4 (B) by striking paragraph (2) and insert-
5 ing the following:

6 “(2) If no agreement is reached with the People’s Re-
7 public of China pursuant to consultations under para-
8 graph (1) in the time required for Presidential action
9 under subsection (k), or if the President determines that
10 an agreement reached pursuant to such consultations is
11 not preventing or remedying the market disruption at
12 issue in the time required for Presidential action under
13 subsection (k), the President shall provide import relief
14 in accordance with subsection (a).”;

15 (8) in subsection (k)—

16 (A) in the heading, by striking “STAND-
17 ARD FOR PRESIDENTIAL ACTION” and inserting
18 “TIMING FOR PRESIDENTIAL ACTION; EXCEP-
19 TIONS”;

20 (B) in paragraph (1), by striking “a rec-
21 ommendation from the Trade Representative”
22 and all that follows to the end period and in-
23 serting “a report from the Trade Representa-
24 tive under subsection (h)(2), the President

1 shall, pursuant to subsection (a), proclaim the
2 relief recommended by the Commission.”; and

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

5 “(2) The President may decline to proclaim relief
6 pursuant to subsection (a), may proclaim relief pursuant
7 to subsection (a) that differs from the relief recommended
8 by the Commission, may decline to proclaim provisional
9 relief pursuant to subsection (i), or may proclaim provi-
10 sional relief pursuant to subsection (i) that differs from
11 the relief recommended by the Commission—

12 “(A) only in extraordinary cases; and

13 “(B) only if the President determines that pro-
14 viding relief or provisional relief pursuant to sub-
15 section (a) or (i) or providing relief recommended by
16 the Commission pursuant to subsection (a) or (i)
17 would cause serious harm to the economic interests
18 or to the national security of the of the United
19 States.”;

20 (9) in subsection (l), by amending paragraph
21 (1) to read as follows: “(1) The President shall,
22 within 15 days after the President’s decision under
23 subsection (k) is made, submit the decision to the
24 Committee on Finance of the Senate and the Com-
25 mittee on Ways and Means of the House of Rep-

1 representatives and publish the decision in the Federal
 2 Register. In the submission to the committees and
 3 the publication in the Federal Register, the Presi-
 4 dent shall include the reasons for the decision and
 5 the scope and duration of any action taken. If the
 6 President takes action that differs from the action
 7 recommended by the Commission under subsection
 8 (f) or declines to take action under subsection
 9 (k)(2), the President shall state in detail the reasons
 10 for such action or inaction.”;

11 (10) by redesignating subsections (m) through
 12 (o) as subsections (n) through (p), respectively;

13 (11) by inserting after subsection (l) the fol-
 14 lowing new subsection:

15 “(m) IMPLEMENTATION OF ACTION RECOMMENDED
 16 BY COMMISSION.—(1) If the President takes action that
 17 differs from the action recommended by the Commission
 18 under subsection (f) or declines to take action under sub-
 19 section (k)(2)(B), the action recommended by the Com-
 20 mission under subsection (f) shall take effect (as provided
 21 in subsection (n)(2)) upon the enactment of a joint resolu-
 22 tion described in paragraph (2) within the 90-day period
 23 beginning on the date on which the President’s decision
 24 is transmitted to the Congress pursuant to subsection (l).

1 “(2) A joint resolution described in this paragraph
2 is a joint resolution of the 2 Houses of the Congress, the
3 sole matter after the resolving clause of which is as fol-
4 lows: ‘That the Congress does not approve the action
5 taken by, or the determination of, the President under sec-
6 tion 421 of the Trade Act of 1974, notice of which was
7 transmitted to the Congress on XXXXXX.’, with the
8 blank space being filled with the appropriate case number
9 and date.

10 “(3) The provisions of section 152(b), (c), (d), (e),
11 and (f) of the Trade Act of 1974 (19 U.S.C. 2192(b), (c),
12 (d), (e), and (f)) shall apply to joint resolutions under this
13 section.”;

14 (12) by amending subsection (n), as redesign-
15 nated, to read as follows:

16 “(n) EFFECTIVE DATE OF RELIEF.—(1) Except as
17 provided in paragraph (2), import relief under this section
18 shall take effect not later than 15 days after the Presi-
19 dent’s determination to provide such relief.

20 “(2) If the action recommended by the Commission
21 takes effect pursuant to subsection (m), the President
22 shall, within 15 days after the date of the enactment of
23 the joint resolution referred to in subsection (m), proclaim
24 the action recommended by the Commission under sub-

1 section (f). Such action shall take effect not later than
2 15 days after the date of the President’s proclamation.”;

3 (13) in subsection (o), as redesignated—

4 (A) in paragraph (1), by striking “6-
5 month” and inserting “1-year”; and

6 (B) in paragraph (3), by inserting “or
7 (m)” after “subsection (k)”; and

8 (14) in subsection (p), as redesignated—

9 (A) in paragraph (1), by inserting “or
10 (m)” after “subsection (k);” and

11 (B) in paragraph (3), by striking “sub-
12 section (m)” and inserting “subsection (n)”.

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