

113TH CONGRESS
1ST SESSION

S. 790

To require the United States International Trade Commission to recommend temporary duty suspensions and reductions to Congress, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 23, 2013

Mrs. McCASKILL (for herself, Mr. PORTMAN, Mr. COATS, Mr. COBURN, Mr. TOOMEY, Mr. VITTER, Mr. FLAKE, Mr. LEE, and Mr. JOHNSON of Wisconsin) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To require the United States International Trade Commission to recommend temporary duty suspensions and reductions to Congress, 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. SHORT TITLE.**

4 This Act may be cited as the “Temporary Duty Sus-
5 pension Process Act of 2013”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
 2 TEES.—The term “appropriate congressional com-
 3 mittees” means the Committee on Finance of the
 4 Senate and the Committee on Ways and Means of
 5 the House of Representatives.

6 (2) COMMISSION.—The term “Commission”
 7 means the United States International Trade Com-
 8 mission.

9 (3) DUTY SUSPENSION OR REDUCTION.—The
 10 term “duty suspension or reduction” means an
 11 amendment to subchapter II of chapter 99 of the
 12 Harmonized Tariff Schedule of the United States—

13 (A) extending an existing temporary sus-
 14 pension or reduction of duty on an article under
 15 that subchapter; or

16 (B) providing for a new temporary suspen-
 17 sion or reduction of duty on an article under
 18 that subchapter.

19 **SEC. 3. RECOMMENDATIONS BY UNITED STATES INTER-**
 20 **NATIONAL TRADE COMMISSION FOR DUTY**
 21 **SUSPENSIONS AND REDUCTIONS.**

22 (a) ESTABLISHMENT OF REVIEW PROCESS.—Not
 23 later than 90 days after the date of the enactment of this
 24 Act, the Commission shall complete all actions necessary

1 to establish a process pursuant to which the Commission
2 will—

3 (1) review each article with respect to which a
4 duty suspension or reduction may be made—

5 (A) at the initiative of the Commission; or

6 (B) pursuant to a petition submitted or re-
7 ferred to the Commission under subsection (b);
8 and

9 (2) submit a draft bill to the appropriate con-
10 gressional committees under subsection (d).

11 (b) PETITIONS.—

12 (1) IN GENERAL.—As part of the process estab-
13 lished under subsection (a), the Commission shall es-
14 tablish procedures under which a petition requesting
15 the Commission to review a duty suspension or re-
16 duction pursuant to that process may be—

17 (A) submitted to the Commission by a
18 member of the public; or

19 (B) referred to the Commission by a Mem-
20 ber of Congress.

21 (2) REQUIREMENTS.—A petition submitted or
22 referred to the Commission under paragraph (1)
23 shall be submitted or referred at such time and in
24 such manner and shall include such information as
25 the Commission may require.

1 (3) NO PREFERENTIAL TREATMENT FOR MEM-
2 BERS OF CONGRESS.—A petition referred to the
3 Commission by a Member of Congress under sub-
4 paragraph (B) of paragraph (1) shall receive treat-
5 ment no more favorable than the treatment received
6 by a petition submitted to the Commission by a
7 member of the public under subparagraph (A) of
8 that paragraph.

9 (c) PUBLIC COMMENTS.—As part of the process es-
10 tablished under subsection (a), the Commission shall es-
11 tablish procedures for—

12 (1) notifying the public when the Commission
13 initiates the process of reviewing articles with re-
14 spect to which duty suspensions or reductions may
15 be made and distributing information about the
16 process, including by posting information about the
17 process on the website of the Commission;

18 (2) except as provided in subsection (d)(4)(C),
19 notifying the public of the duty suspensions and re-
20 ductions the Commission is considering including in
21 the draft bill not later than 45 days before submit-
22 ting a draft bill to the appropriate congressional
23 committees under subsection (d)(1); and

1 (3) providing the public with an opportunity to
 2 submit comments with respect to any of those duty
 3 suspensions or reductions.

4 (d) SUBMISSION OF DRAFT BILL.—

5 (1) IN GENERAL.—The Commission shall sub-
 6 mit to the appropriate congressional committees a
 7 draft bill that contains each duty suspension or re-
 8 duction that the Commission determines, pursuant
 9 to the process established under subsection (a) and
 10 after conducting the consultations required by sub-
 11 section (e), meets the requirements described in sub-
 12 section (f), not later than—

13 (A) the date that is 60 days after the date
 14 of the enactment of this Act;

15 (B) February 1, 2015; and

16 (C) February 1, 2018.

17 (2) EFFECTIVE PERIOD OF DUTY SUSPENSIONS
 18 AND REDUCTIONS.—Duty suspensions and reduc-
 19 tions included in a draft bill submitted under para-
 20 graph (1) shall be effective for a period of not less
 21 than 3 years.

22 (3) AUTHORITY TO MAKE CERTAIN MODIFICA-
 23 TIONS.—In including a duty suspension or reduction
 24 the Commission determines otherwise meets the re-

quirements of subsection (f) in a draft bill to be submitted under paragraph (1), the Commission may—

(A) modify the article description for the duty suspension or reduction—

(i) to ensure that U.S. Customs and Border Protection can administer the duty suspension or reduction; or

(ii) to correct a technical deficiency in the article description;

(B) modify the duty rate for the duty suspension or reduction so that the estimated loss in revenue to the United States from the duty suspension or reduction does not exceed the amount specified in subsection (f)(1)(B); or

(C) consolidate the duty suspension or reduction with other duplicative or overlapping duty suspensions or reductions.

(4) SPECIAL RULES FOR FIRST SUBMISSION.—

For purposes of submitting the draft bill required to be submitted on the date specified in paragraph (1)(A), the Commission—

(A) may use the evaluations conducted by the Commission of bills providing for duty suspensions or reductions introduced in the Senate

1 or the House of Representatives during the
2 112th Congress;

3 (B) shall be required to include only duty
4 suspensions and reductions with respect to
5 which the Commission has sufficient time to
6 make a determination under paragraph (1) be-
7 fore the draft bill is required to be submitted;
8 and

9 (C) shall notify the public of the duty sus-
10 pensions and reductions the Commission is con-
11 sidering including in the draft bill not later
12 than 30 days before submitting the draft bill.

13 (e) CONSULTATIONS.—In determining whether a
14 duty suspension or reduction meets the requirements de-
15 scribed in subsection (f), the Commission shall, not later
16 than 30 days before submitting a draft bill to the appro-
17 priate congressional committees under subsection (d), con-
18 duct consultations with the Commissioner responsible for
19 U.S. Customs and Border Protection, the Secretary of
20 Commerce, the United States Trade Representative, and
21 the heads of other relevant Federal agencies.

22 (f) REQUIREMENTS FOR DUTY SUSPENSIONS AND
23 REDUCTIONS.—

1 (1) IN GENERAL.—A duty suspension or reduc-
2 tion meets the requirements described in this sub-
3 section if—

4 (A) the duty suspension or reduction can
5 be administered by U.S. Customs and Border
6 Protection;

7 (B) the estimated loss in revenue to the
8 United States from the duty suspension or re-
9 duction does not exceed \$500,000 in a calendar
10 year during which the duty suspension or re-
11 duction would be in effect; and

12 (C) on the date on which the Commission
13 submits a draft bill to the appropriate congres-
14 sional committees under subsection (d) that in-
15 cludes the duty suspension or reduction, the ar-
16 ticle to which the duty suspension or reduction
17 would apply is not produced in the United
18 States and is not expected to be produced in
19 the United States during the subsequent 12-
20 month period.

21 (2) CONSIDERATION OF RELEVANT INFORMA-
22 TION.—In determining whether a duty suspension or
23 reduction meets the requirements described in para-
24 graph (1), the Commission may consider any infor-

1 mation the Commission considers relevant to the de-
 2 termination.

3 (3) JUDICIAL REVIEW PRECLUDED.—A deter-
 4 mination of the Commission with respect to whether
 5 or not a duty suspension or reduction meets the re-
 6 quirements described in paragraph (1) shall not be
 7 subject to judicial review.

8 (g) REPORTS REQUIRED.—

9 (1) IN GENERAL.—Each time the Commission
 10 submits a draft bill under subsection (d), the Com-
 11 mission shall submit to the appropriate congres-
 12 sional committees a report on the duty suspensions
 13 and reductions contained in the draft bill that in-
 14 cludes—

15 (A) the views of the head of each agency
 16 consulted under subsection (e); and

17 (B) any objections received by the Com-
 18 mission during consultations conducted under
 19 subsection (e) or through public comments sub-
 20 mitted under subsection (c), including—

21 (i) objections with respect to duty sus-
 22 pensions or reductions the Commission in-
 23 cluded in the draft bill; and

1 (ii) objections that led to the Commis-
2 sion to determine not to include a duty
3 suspension or reduction in the draft bill.

4 (2) INITIAL REPORT ON PROCESS.—Not later
5 than one year after the date of the enactment of this
6 Act, the Commission shall submit to the appropriate
7 congressional committees a report that includes—

8 (A) an assessment of the effectiveness of
9 the process established under subsection (a)
10 and the requirements of this section;

11 (B) to the extent practicable, a description
12 of the effects of duty suspensions and reduc-
13 tions recommended pursuant to that process on
14 the United States economy that includes—

15 (i) a broad assessment of the eco-
16 nomic effects of such duty suspensions and
17 reductions on producers, purchasers, and
18 consumers in the United States; and

19 (ii) case studies describing such ef-
20 fects by industry or by type of articles, as
21 available data permits;

22 (C) to the extent practicable, a comparison
23 of the actual loss in revenue to the United
24 States resulting from duty suspensions and re-
25 ductions recommended pursuant to that process

1 to the loss in such revenue estimated during
2 that process, based on data available at the
3 time of the submission of the report;

4 (D) to the extent practicable, information
5 on how broadly or narrowly duty suspensions
6 and reductions recommended pursuant to that
7 process were used by importers; and

8 (E) any recommendations of the Commis-
9 sion for improving that process and the require-
10 ments of this section.

11 (h) FORM OF DRAFT BILL AND REPORTS.—Each
12 draft bill submitted under subsection (d) and each report
13 required by subsection (g) shall be—

14 (1) submitted to the appropriate congressional
15 committees in electronic form; and

16 (2) made available to the public on the website
17 of the Commission.

18 **SEC. 4. REPORTS ON BENEFITS OF DUTY SUSPENSIONS OR**
19 **REDUCTIONS TO SECTORS OF THE UNITED**
20 **STATES ECONOMY.**

21 Not later than January 1, 2014, and annually there-
22 after, the Commission shall submit to the appropriate con-
23 gressional committees a report that—

24 (1) makes recommendations with respect to sec-
25 tors of the United States economy that could benefit

- 1 from duty suspensions or reductions without causing
2 harm to other domestic interests; and
3 (2) assesses the feasibility and advisability of
4 suspending or reducing duties on a sectoral basis
5 rather than on individual articles.

