

There was no objection.

UNITED STATES TRADE RIGHTS ENFORCEMENT ACT

Mr. ENGLISH of Pennsylvania. Madam Speaker, pursuant to House Resolution 387, I call up the bill (H.R. 3283) to enhance resources to enforce United States trade rights, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 387, the bill is considered read.

The text of H.R. 3283 is as follows:

H.R. 3283

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Trade Rights Enforcement Act".

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) United States producers that believe they are injured by subsidized imports from nonmarket economy countries have not been able to obtain relief through countervailing duty actions because the Department of Commerce has declined to make countervailing duty determinations for nonmarket economy countries in part because it lacks explicit legal authority to do so;

(2) explicitly making the countervailing duty law under subtitle A of title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) applicable to actions by nonmarket economy countries would give United States producers access to import relief measures that directly target government subsidies;

(3) the Bureau of Customs and Border Protection of the Department of Homeland Security has encountered particular problems in collecting countervailing and antidumping duties from new shippers who default on their bonding obligations;

(4) this behavior may detract from the ability of United States companies to recover from competition found to be unfair under international trade laws;

(5) accordingly, it is appropriate, for a test period, to suspend the availability of bonds for new shippers and instead require cash deposits;

(6) more analysis and assessment is needed to determine the appropriate policy to respond to this and other problems experienced in the collection of duties and the impact that policy changes could have on legitimate United States trade and United States trade obligations;

(7) given the developments in the ongoing World Trade Organization (WTO) negotiations relating to trade remedies, Congress reiterates its resolve as expressed in House Concurrent Resolution 262 (107th Congress), which was overwhelmingly approved by the House of Representatives on November 7, 2001, by a vote of 410 to 4;

(8) the United States Trade Representative should monitor compliance by United States trading partners with their trade obligations and systematically identify areas of non-compliance;

(9) the United States Trade Representative should then aggressively resolve noncompliance through consultations with United States trading partners;

(10) however, should efforts to resolve disputes through consultation fail, the United States Trade Representative should vigorously pursue United States rights through dispute settlement in every available forum;

(11) given the huge growth in trade with the People's Republic of China, its impact on the United States economy, and the complaints voiced by many United States interests that China is not complying with its international trade obligations, the United States Trade Representative should place particular emphasis on identifying and resolving disputes with China that limit United States exports, particularly concerning compliance with obligations relating to intellectual property rights and enforcement, tariff and nontariff barriers, subsidies, technical barriers to trade, sanitary and phytosanitary issues, nonmarket-based industrial policies, distribution rights, and regulatory transparency;

(12) in addition, the United States Trade Representative should place particular emphasis on trade barriers imposed by Japan, specifically the Japanese trade ban on United States beef without scientific justification, the Japanese sanitary and phytosanitary restrictions on United States agricultural products, Japanese policies on pharmaceutical and medical device reference pricing, insurance cross-subsidization, and privatization in a variety of sectors that discriminate against United States companies;

(13) the fixed exchange rate that the People's Republic of China currently maintains is a substantial distortion to world markets, blocking the price mechanism and impeding adjustment of international imbalances, and it is also a source of large and increasing risk to the Chinese economy;

(14) the People's Republic of China has completed significant preparations over the last two years for adoption of a more flexible, market-oriented exchange rate;

(15) the People's Republic of China is now ready to move to a more flexible exchange rate and it should move to such an exchange rate as soon as possible;

(16) the Secretary of the Treasury, in the annual report reviewing developments in international economic policy, including exchange rate policy, under the Omnibus Trade and Competitiveness Act of 1988, appropriately concluded that "current Chinese policies are highly distortionary and pose a risk to China's economy, its trading partners, and global economic growth";

(17) moreover, the rapid growth of credit and very high rate of investment risk undermine the progress that the People's Republic of China has made in reforming its banking system by creating new flows of non-performing loans;

(18) such behavior effectively prevents market forces from operating efficiently in the People's Republic of China, which distorts world trade;

(19) furthermore, based on the fact that the Secretary of the Treasury has determined the currency policy of the People's Republic of China to be "distortionary", the United States Trade Representative and the Secretary of the Treasury should place particular emphasis on determining whether China is violating its international obligations and identify to Congress the actions it is taking to address distortions to world trade;

(20) in addition, Japan's policy of intervening to influence the value of its currency and its prolific barriers to trade create distortions that disadvantage United States exporters;

(21) this adverse impact is magnified by Japan's role in the global marketplace, combined with its chronic surplus, weak economy, deflationary economy, low growth rate, and lack of consumer spending; and

(22) accordingly, the United States Trade Representative should have additional resources in the Office of the General Counsel, the Office of Monitoring and Enforcement,

the Office of China Affairs, and the Office of Japan, Korea, and APEC Affairs to address a variety of needs that will best enable United States companies, farmers, and workers to benefit from the trade agreements to which the United States has around the world.

SEC. 3. APPLICATION OF COUNTERVAILING DUTIES TO NONMARKET ECONOMY COUNTRIES.

(a) AMENDMENTS.—

(1) COUNTERVAILING DUTIES IMPOSED.—Section 701(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1671(a)(1)) is amended by inserting "(including a nonmarket economy country)" after "country" each place it appears.

(2) DEFINITION OF COUNTERVAILABLE SUBSIDY.—Section 771(5)(E) of such Act (19 U.S.C. 1677(5)(E)) is amended by adding at the end the following new sentences: "With respect to the People's Republic of China, if the administering authority encounters special difficulties in calculating the amount of a benefit under clause (i), (ii), (iii), or (iv) of this subparagraph, the administering authority may use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. When applying such methodologies, the administering authority should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China."

(b) PROHIBITION ON DOUBLE COUNTING.—In applying section 701(a)(1) of the Tariff Act of 1930, as amended by subsection (a), to a class or kind of merchandise of a nonmarket economy country, the administering authority shall ensure that—

(1) any countervailable subsidy is not double counted in an antidumping order under section 731 of such Act (19 U.S.C. 1673) on the same class or kind of merchandise of the country; and

(2) the application of section 701(a)(1) of such Act is consistent with the international obligations of the United States.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) apply to any petition filed under section 702 of the Tariff Act of 1930 (19 U.S.C. 1671a) on or after 30 days after the date of the enactment of this Act, and the provisions contained in subsection (b) apply to any subsequent determination made under section 733, 735, or 751 of such Act (19 U.S.C. 1673b, 1673d, or 1675).

SEC. 4. NEW SHIPPER REVIEW AMENDMENT.

(a) SUSPENSION OF THE AVAILABILITY OF BONDS TO NEW SHIPPERS.—Clause (iii) of section 751(a)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(2)(B)(iii)) shall not be effective during the 3-year period beginning on the date of the enactment of this Act.

(b) REPORT ON THE IMPACT OF THE SUSPENSION.—Not later than 2 years after the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Commerce, the United States Trade Representative, and the Secretary of Homeland Security, shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report containing—

(1) recommendations on whether the suspension of the effectiveness of section 751(a)(2)(B)(iii) of the Tariff Act of 1930 should be extended beyond the date provided in subsection (a) of this section; and

(2) assessments of the effectiveness of any administrative measures that have been implemented to address the difficulties giving rise to the suspension under subsection (a) of this section, including—

(A) problems in assuring the collection of antidumping duties on imports from new shippers; and