

106TH CONGRESS  
1ST SESSION

# S. 61

To amend the Tariff Act of 1930 to eliminate disincentives to fair trade conditions.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 19, 1999

Mr. DEWINE (for himself, Mr. HOLLINGS, Mr. ABRAHAM, Mr. SANTORUM, Mr. SPECTER, Mr. BYRD, Mr. HUTCHINSON, and Mr. VOINOVICH) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Tariff Act of 1930 to eliminate disincentives to fair trade conditions.

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 “Continued Dumping  
5 and Subsidy Offset Act of 1999”.

6 **SEC. 2. FINDINGS OF CONGRESS.**

7 Congress makes the following findings:

8 (1) Consistent with the rights of the United  
9 States under the World Trade Organization, injuri-

1       ous dumping is to be condemned and actionable sub-  
2       sidies which cause injury to domestic industries  
3       must be effectively neutralized.

4           (2) United States unfair trade laws have as  
5       their purpose the restoration of conditions of fair  
6       trade so that jobs and investment that should be in  
7       the United States are not lost through the false  
8       market signals.

9           (3) The continued dumping or subsidization of  
10      imported products after the issuance of antidumping  
11      orders or findings or countervailing duty orders can  
12      frustrate the remedial purpose of the laws by pre-  
13      venting market prices from returning to fair levels.

14          (4) Where dumping or subsidization continues,  
15      domestic producers will be reluctant to reinvest or  
16      rehire and may be unable to maintain pension and  
17      health care benefits that conditions of fair trade  
18      would permit. Similarly, small businesses and Amer-  
19      ican farmers and ranchers may be unable to pay  
20      down accumulated debt, to obtain working capital,  
21      or to otherwise remain viable.

22          (5) United States trade laws should be  
23      strengthened to see that the remedial purpose of  
24      those laws is achieved.

1 **SEC. 3. AMENDMENTS TO THE TARIFF ACT OF 1930.**

2 (a) IN GENERAL.—Title VII of the Tariff Act of  
3 1930 (19 U.S.C. 1671 et seq.) is amended by inserting  
4 after section 753 following new section:

5 **“SEC. 754. CONTINUED DUMPING AND SUBSIDY OFFSET.**

6 “(a) IN GENERAL.—Duties assessed pursuant to a  
7 countervailing duty order, an antidumping duty order, or  
8 a finding under the Antidumping Act of 1921 shall be dis-  
9 tributed on an annual basis under this section to the af-  
10 fected domestic producers for qualifying expenditures.  
11 Such distribution shall be known as the ‘continued dump-  
12 ing and subsidy offset’.

13 “(b) DEFINITIONS.—As used in this section:

14 “(1) AFFECTED DOMESTIC PRODUCER.—The  
15 term ‘affected domestic producer’ means any manu-  
16 facturer, producer, farmer, rancher, or worker rep-  
17 resentative (including associations of such persons)  
18 that—

19 “(A) was a petitioner or interested party in  
20 support of the petition with respect to which an  
21 antidumping duty order, a finding under the  
22 Antidumping Act of 1921, or a countervailing  
23 duty order has been entered, and

24 “(B) remains in operation.

25 Companies, businesses, or persons that have ceased  
26 the production of the product covered by the order

1 or finding or who have been acquired by a company  
 2 or business that is related to a company that op-  
 3 posed the investigation shall not be an affected do-  
 4 mestic producer.

5 “(2) COMMISSIONER.—The term ‘Commis-  
 6 sioner’ means the Commissioner of Customs.

7 “(3) COMMISSION.—The term ‘Commission’  
 8 means the United States International Trade Com-  
 9 mission.

10 “(4) QUALIFYING EXPENDITURE.—The term  
 11 ‘qualifying expenditure’ means an expenditure in-  
 12 curred after the issuance of the antidumping duty  
 13 finding or order or countervailing duty order in any  
 14 of the following categories:

15 “(A) Plant.

16 “(B) Equipment.

17 “(C) Research and development.

18 “(D) Personnel training.

19 “(E) Acquisition of technology.

20 “(F) Health care benefits to employees  
 21 paid for by the employer.

22 “(G) Pension benefits to employees paid  
 23 for by the employer.

24 “(H) Environmental equipment, training,  
 25 or technology.

1           “(I) Acquisition of raw materials and other  
2           inputs.

3           “(J) Borrowed working capital or other  
4           funds needed to maintain production.

5           “(5) RELATED TO.—A company, business, or  
6           person shall be considered to be ‘related to’ another  
7           company, business, or person if—

8           “(A) the company, business, or person di-  
9           rectly or indirectly controls or is controlled by  
10          the other company, business, or person,

11          “(B) a third party directly or indirectly  
12          controls both companies, businesses, or persons,

13          “(C) both companies, businesses, or per-  
14          sons directly or indirectly control a third party  
15          and there is reason to believe that the relation-  
16          ship causes the first company, business, or per-  
17          sons to act differently than a nonrelated party.

18          For purposes of this paragraph, a party shall be  
19          considered to directly or indirectly control another  
20          party if the party is legally or operationally in a po-  
21          sition to exercise restraint or direction over the other  
22          party.

23          “(c) DISTRIBUTION PROCEDURES.—The Commis-  
24          sioner shall prescribe procedures for distribution of the  
25          continued dumping or subsidies offset required by this sec-

1 tion. Such distribution shall be made not later than 60  
2 days after the first day of a fiscal year from duties as-  
3 sessed during the preceding fiscal year.

4 “(d) PARTIES ELIGIBLE FOR DISTRIBUTION OF  
5 ANTIDUMPING AND COUNTERVAILING DUTIES AS-  
6 SESSED.—

7 “(1) LIST OF AFFECTED DOMESTIC PRODUC-  
8 ERS.—The Commission shall forward to the Com-  
9 missioner within 60 days after the effective date of  
10 this section in the case of orders or findings in effect  
11 on such effective date, or in any other case, within  
12 60 days after the date an antidumping or counter-  
13 vailing duty order or finding is issued, a list of peti-  
14 tioners and persons with respect to each order and  
15 finding and a list of persons that indicate support of  
16 the petition by letter or through questionnaire re-  
17 sponse. In those cases in which a determination of  
18 injury was not required or the Commission’s records  
19 do not permit an identification of those in support  
20 of a petition, the Commission shall consult with the  
21 administering authority to determine the identity of  
22 the petitioner and those domestic parties who have  
23 entered appearances during administrative reviews  
24 conducted by the administering authority under sec-  
25 tion 751.

1           “(2) PUBLICATION OF LIST; CERTIFICATION.—

2           The Commissioner shall publish in the Federal Reg-  
3           ister at least 30 days before the distribution of a  
4           continued dumping and subsidy offset, a notice of  
5           intention to distribute the offset and the list of af-  
6           fected domestic producers potentially eligible for the  
7           distribution based on the list obtained from the  
8           Commission under paragraph (1). The Commis-  
9           sioner shall request a certification from each poten-  
10          tially eligible affected domestic producer—

11                   “(A) that the producer desires to receive a  
12                   distribution;

13                   “(B) that the producer is eligible to receive  
14                   the distribution as an affected domestic pro-  
15                   ducer; and

16                   “(C) the qualifying expenditures incurred  
17                   by the producer since the issuance of the order  
18                   or finding for which distribution under this sec-  
19                   tion has not previously been made.

20           “(3) DISTRIBUTION OF FUNDS.—The Commis-  
21           sioner shall distribute all funds (including all inter-  
22           est earned on the funds) from assessed duties re-  
23           ceived in the preceding fiscal year to affected domes-  
24           tic producers based on the certifications described in  
25           paragraph (2). The distributions shall be made on a

1 pro rata basis based on new and remaining qualify-  
2 ing expenditures.

3 “(e) SPECIAL ACCOUNTS.—

4 “(1) ESTABLISHMENTS.—Within 14 days after  
5 the effective date of this section, with respect to  
6 antidumping duty orders and findings and counter-  
7 vailing duty orders in effect on the effective date of  
8 this section, and within 14 days after the date an  
9 antidumping duty order or finding or countervailing  
10 duty order issued after the effective date takes ef-  
11 fect, the Commissioner shall establish in the Treas-  
12 ury of the United States a special account with re-  
13 spect to each such order or finding.

14 “(2) DEPOSITS INTO ACCOUNTS.—The Commis-  
15 sioner shall deposit into the special accounts, all  
16 antidumping or countervailing duties (including in-  
17 terest earned on such duties) that are assessed after  
18 the effective date of this section under the anti-  
19 dumping order or finding or the countervailing duty  
20 order with respect to which the account was estab-  
21 lished.

22 “(3) TIME AND MANNER OF DISTRIBUTIONS.—  
23 Consistent with the requirements of subsections (c)  
24 and (d), the Commissioner shall by regulation pre-



1 scribe the time and manner in which distribution of  
2 the funds in a special account shall made.

3 “(4) TERMINATION.—A special account shall  
4 terminate after—

5 “(a) the order or finding with respect to  
6 which the account was established has termi-  
7 nated;

8 “(B) all entries relating to the order or  
9 finding are liquidated and duties assessed col-  
10 lected;

11 “(C) the Commissioner has provided notice  
12 and a final opportunity to obtain distribution  
13 pursuant to subsection (c); and

14 “(D) 90 days has elapsed from the date of  
15 the notice described in subparagraph (C).

16 Amounts not claimed within 90 days of the date of  
17 the notice described in subparagraph (C), shall be  
18 deposited into the general fund of the Treasury.”.

19 (b) CONFORMING AMENDMENT.—The table of con-  
20 tents for title VII of the Tariff Act of 1930 is amended  
21 by inserting the following new item after the item relating  
22 to section 753:

“Sec. 754. Continued dumping and subsidy offset.”.

23 (c) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply with respect to all antidumping

1 and countervailing duty assessments made on or after Oc-  
2 tober 1, 1996.

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