

110TH CONGRESS
1ST SESSION

H. R. 1229

To amend title VII of the Tariff Act of 1930 to provide that the provisions relating to countervailing duties apply to nonmarket economy countries, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 28, 2007

Mr. DAVIS of Alabama (for himself and Mr. ENGLISH 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 title VII of the Tariff Act of 1930 to provide that the provisions relating to countervailing duties apply to nonmarket economy countries, 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 “Nonmarket Economy
5 Trade Remedy Act of 2007”.

1 **SEC. 2. APPLICATION OF COUNTERVAILING DUTIES TO**
2 **NONMARKET ECONOMIES AND STRENGTH-**
3 **ENING APPLICATION OF THE LAW.**

4 (a) IN GENERAL.—Section 701(a)(1) of the Tariff
5 Act of 1930 (19 U.S.C. 1671(a)(1)) is amended by insert-
6 ing “(including a nonmarket economy country)” after
7 “country” each place it appears.

8 (b) USE OF ALTERNATE METHODOLOGIES INVOLV-
9 ING CHINA.—Section 771(5)(E) of the Tariff Act of 1930
10 (19 U.S.C. 1677(5)(E)) is amended by adding at the end
11 the following: “If the administering authority encounters
12 special difficulties in identifying and calculating the
13 amount of a benefit under clauses (i) through (iv) with
14 respect to an investigation or review involving the People’s
15 Republic of China, irrespective of whether the admin-
16 istering authority determines that China is a nonmarket
17 economy country under paragraph (18) of this section, the
18 administering authority shall use methodologies to identify
19 and calculate the amount of the benefit that take into ac-
20 count the possibility that terms and conditions prevailing
21 in China may not always be available as appropriate
22 benchmarks. In applying such methodologies, where prac-
23 ticable, the administering authority should take into ac-
24 count and adjust terms and conditions prevailing in China
25 before using terms and conditions prevailing outside of
26 China. When the administering authority has determined

1 that China is a nonmarket economy country under para-
2 graph (18) of this section, the administering authority
3 shall presume that special difficulties exist in calculating
4 the amount of a benefit under clauses (i) through (iv) with
5 respect to an investigation or review involving China and
6 that it is not practicable to take into account and adjust
7 terms and conditions prevailing in China, and the admin-
8 istering authority shall use terms and conditions pre-
9 vailing outside of China.”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 subsections (a) and (b) apply to petitions filed under sec-
12 tion 702 of the Tariff Act of 1930 (19 U.S.C. 1671a) on
13 or after October 1, 2006.

14 (d) ANTIDUMPING PROVISIONS NOT AFFECTED.—
15 The amendments made by subsections (a) and (b) shall
16 not affect the status of a country as a nonmarket economy
17 country for the purposes of any matter relating to anti-
18 dumping duties under subtitle B of title VII of the Tariff
19 Act of 1930 (19 U.S.C. 1673 et seq.).

20 (e) RULE OF CONSTRUCTION.—The amendments
21 made by subsections (a) and (b) shall not be construed
22 to affect the interpretation of any provision of law as in
23 effect on the day before the date of the enactment of this
24 Act with respect to the application of countervailing duties
25 to nonmarket economy countries.

1 **SEC. 3. REVOCATION OF NONMARKET ECONOMY COUNTRY**
2 **STATUS.**

3 (a) AMENDMENT OF DEFINITION OF “NONMARKET
4 ECONOMY COUNTRY”.—Section 771(18)(C)(i) of the Tar-
5 iff Act of 1930 (19 U.S.C. 1677(18)(C)(i)) is amended
6 to read as follows:

7 “(i) Any determination that a foreign
8 country is a nonmarket economy country
9 shall remain in effect until—

10 “(I) the administering authority
11 makes a final determination to revoke
12 the determination under subparagraph
13 (A); and

14 “(II) a joint resolution is enacted
15 into law pursuant to section 3 of the
16 Nonmarket Economy Trade Remedy
17 Act of 2007.”.

18 (b) NOTIFICATION BY PRESIDENT; JOINT RESOLU-
19 TION.—Whenever the administering authority makes a
20 final determination under section 771(18)(C)(i)(I) of the
21 Tariff Act of 1930 (19 U.S.C. 1677(18)(C)(i)(I)) to re-
22 voke the determination that a foreign country is a non-
23 market economy country—

24 (1) the President shall notify the Committee on
25 Finance of the Senate and the Committee on Ways
26 and Means of the House of Representatives of that

1 determination not later than 10 days after the publi-
2 cation of the administering authority's final deter-
3 mination in the Federal Register;

4 (2) the President shall transmit to the Congress
5 a request that a joint resolution be introduced pur-
6 suant to this section; and

7 (3) a joint resolution shall be introduced in the
8 Congress pursuant to this section.

9 (c) DEFINITION.—For purposes of this section, the
10 term “joint resolution” means only a joint resolution of
11 the 2 Houses of the Congress, the matter after the resolv-
12 ing clause of which is as follows: “That the Congress ap-
13 proves the change of nonmarket economy status with re-
14 spect to the products of _____ transmitted by the
15 President to the Congress on _____.”, the first
16 blank space being filled in with the name of the country
17 with respect to which a determination has been made
18 under section 771(18)(C)(i) of the Tariff Act of 1930 (19
19 U.S.C. 1677(18)(C)(i)), and the second blank space being
20 filled with the date on which the President notified the
21 Committee on Finance of the Senate and the Committee
22 on Ways and Means of the House of Representatives
23 under subsection (b)(1).

24 (d) INTRODUCTION.—A joint resolution shall be in-
25 troduced (by request) in the House of Representatives by

1 the majority leader of the House, for himself, or by Mem-
2 bers of the House designated by the majority leader of
3 the House, and shall be introduced (by request) in the
4 Senate by the majority leader of the Senate, for himself,
5 or by Members of the Senate designated by the majority
6 leader of the Senate.

7 (e) AMENDMENTS PROHIBITED.—No amendment to
8 a joint resolution shall be in order in either the House
9 of Representatives or the Senate, and no motion to sus-
10 pend the application of this subsection shall be in order
11 in either House, nor shall it be in order in either House
12 for the presiding officer to entertain a request to suspend
13 the application of this subsection by unanimous consent.

14 (f) PERIOD FOR COMMITTEE AND FLOOR CONSIDER-
15 ATION.—

16 (1) IN GENERAL.—If the committee or commit-
17 tees of either House to which a joint resolution has
18 been referred have not reported the joint resolution
19 at the close of the 45th day after its introduction,
20 such committee or committees shall be automatically
21 discharged from further consideration of the joint
22 resolution and it shall be placed on the appropriate
23 calendar. A vote on final passage of the joint resolu-
24 tion shall be taken in each House on or before the
25 close of the 15th day after the joint resolution is re-

1 ported by the committee or committees of that
2 House to which it was referred, or after such com-
3 mittee or committees have been discharged from fur-
4 ther consideration of the joint resolution. If, prior to
5 the passage by one House of a joint resolution of
6 that House, that House receives the same joint reso-
7 lution from the other House, then—

8 (A) the procedure in that House shall be
9 the same as if no joint resolution had been re-
10 ceived from the other House, but

11 (B) the vote on final passage shall be on
12 the joint resolution of the other House.

13 (2) COMPUTATION OF DAYS.—For purposes of
14 paragraph (1), in computing a number of days in ei-
15 ther House, there shall be excluded any day on
16 which that House is not in session.

17 (g) FLOOR CONSIDERATION IN THE HOUSE.—

18 (1) MOTION PRIVILEGED.—A motion in the
19 House of Representatives to proceed to the consider-
20 ation of a joint resolution shall be highly privileged
21 and not debatable. An amendment to the motion
22 shall not be in order, nor shall it be in order to move
23 to reconsider the vote by which the motion is agreed
24 to or disagreed to.

1 (2) DEBATE LIMITED.—Debate in the House of
2 Representatives on a joint resolution shall be limited
3 to not more than 20 hours, which shall be divided
4 equally between those favoring and those opposing
5 the joint resolution. A motion further to limit debate
6 shall not be debatable. It shall not be in order to
7 move to recommit a joint resolution or to move to
8 reconsider the vote by which a joint resolution is
9 agreed to or disagreed to.

10 (3) MOTIONS TO POSTPONE.—Motions to post-
11 pone, made in the House of Representatives with re-
12 spect to the consideration of a joint resolution, and
13 motions to proceed to the consideration of other
14 business, shall be decided without debate.

15 (4) APPEALS.—All appeals from the decisions
16 of the Chair relating to the application of the Rules
17 of the House of Representatives to the procedure re-
18 lating to a joint resolution shall be decided without
19 debate.

20 (5) OTHER RULES.—Except to the extent spe-
21 cifically provided in the preceding provisions of this
22 subsection, consideration of a joint resolution shall
23 be governed by the Rules of the House of Represent-
24 atives applicable to other bills and resolutions in
25 similar circumstances.

1 (h) FLOOR CONSIDERATION IN THE SENATE.—

2 (1) MOTION PRIVILEGED.—A motion in the
3 Senate to proceed to the consideration of a joint res-
4 olution shall be privileged and not debatable. An
5 amendment to the motion shall not be in order, nor
6 shall it be in order to move to reconsider the vote
7 by which the motion is agreed to or disagreed to.

8 (2) DEBATE LIMITED.—Debate in the Senate
9 on a joint resolution, and all debatable motions and
10 appeals in connection therewith, shall be limited to
11 not more than 20 hours. The time shall be equally
12 divided between, and controlled by, the majority
13 leader and the minority leader or their designees.

14 (3) CONTROL OF DEBATE.—Debate in the Sen-
15 ate on any debatable motion or appeal in connection
16 with a joint resolution shall be limited to not more
17 than 1 hour, to be equally divided between, and con-
18 trolled by, the mover and the manager of the joint
19 resolution, except that in the event the manager of
20 the joint resolution is in favor of any such motion
21 or appeal, the time in opposition thereto shall be
22 controlled by the minority leader or his designee.
23 Such leaders, or either of them, may, from time
24 under their control on the passage of a joint resolu-

1 tion, allot additional time to any Senator during the
2 consideration of any debatable motion or appeal.

3 (4) OTHER MOTIONS.—A motion in the Senate
4 to further limit debate is not debatable. A motion to
5 recommit a joint resolution is not in order.

6 (i) RULES OF HOUSE OF REPRESENTATIVES AND
7 SENATE.—Subsections (c) through (h) are enacted by the
8 Congress—

9 (1) as an exercise of the rulemaking power of
10 the House of Representatives and the Senate, re-
11 spectively, and as such subsections (c) through (h)
12 are deemed a part of the rules of each House, re-
13 spectively, but applicable only with respect to the
14 procedure to be followed in that House in the case
15 of joint resolutions described in subsection (c), and
16 subsection (c) through (h) supersede other rules
17 only to the extent that they are inconsistent there-
18 with; and

19 (2) with full recognition of the constitutional
20 right of either House to change the rules (so far as
21 relating to the procedure of that House) at any time,
22 in the same manner and to the same extent as in
23 the case of any other rule of that House.

1 **SEC. 4. STUDY AND REPORT ON SUBSIDIES BY PEOPLE'S**
2 **REPUBLIC OF CHINA.**

3 (a) STUDY.—The United States International Trade
4 Commission shall conduct a study, under section 332 of
5 the Tariff Act of 1930 (19 U.S.C. 1332), regarding how
6 the People's Republic of China uses government interven-
7 tion to promote investment, employment, and exports. The
8 study shall comprehensively catalog, and when possible
9 quantify, the practices and policies that central, provincial,
10 and local government bodies in the People's Republic of
11 China use to support and to attempt to influence decision-
12 making in China's manufacturing enterprises and indus-
13 tries. Chapters of this study shall include, but not be lim-
14 ited to, the following:

- 15 (1) Privatization and private ownership.
- 16 (2) Nonperforming loans.
- 17 (3) Price coordination.
- 18 (4) Selection of industries for targeted assist-
19 ance.
- 20 (5) Banking and finance.
- 21 (6) Utility rates.
- 22 (7) Infrastructure development.
- 23 (8) Taxation.
- 24 (9) Restraints on imports and exports.
- 25 (10) Research and development.
- 26 (11) Worker training and retraining.

1 (12) Rationalization and closure of uneconomic
2 enterprises.

3 (b) REPORT.—The Congress requests that—

4 (1) not later than 9 months after the date of
5 the enactment of this Act, the International Trade
6 Commission complete its study under subsection (a),
7 submit a report on the study to the Committee on
8 Ways and Means of the House of Representatives
9 and the Committee on Finance of the Senate, and
10 make the report available to the public; and

11 (2) not later than 1 year after the report under
12 paragraph (1) is submitted, and annually thereafter
13 through 2017, the International Trade Commission
14 prepare and submit to the committees referred to in
15 paragraph (1) an update of the report and make the
16 update of the report available to the public.

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