

110TH CONGRESS
2D SESSION

H. R. 5960

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

MAY 5, 2008

Mr. ALTMIRE (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 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”.

6 **SEC. 2. LIMITATION ON PRESIDENTIAL DISCRETION.**

7 Section 421 of the Trade Act of 1974 (19 U.S.C.
8 2451) is amended—

1 (1) in subsection (a)—

2 (A) by inserting “any” before “increased
3 duties”; and

4 (B) by striking “, to the extent and for
5 such period” and all that follows to the end pe-
6 riod and inserting “recommended by the Inter-
7 national Trade Commission”;

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

13 (3) in subsection (f)—

14 (A) in the heading, by striking “ON PRO-
15 POSED REMEDIES” and inserting “FOR RE-
16 LIEF”;

17 (B) in the first sentence—

18 (i) by striking “the President or
19 Trade Representative may consider as”
20 and inserting “is to be considered”; and

21 (ii) by striking “the Commission shall
22 propose” and inserting “the Commission
23 shall recommend”; and

1 (C) in the second sentence, by striking
2 “proposed action” and inserting “recommended
3 action”;

4 (4) in subsection (g)(2)(B)—

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

9 (B) by striking “on proposed remedies”
10 and inserting “for relief”;

11 (5) in subsection (h)—

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

17 (B) in paragraph (1)—

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

23 (ii) by striking “proposed measure”
24 and inserting “recommended relief”;

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

7 (D) by adding at the end the following new
8 paragraph:

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

15 (6) in subsection (i)—

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

22 (B) by striking paragraphs (2), (3), and
23 (4), and inserting the following:

24 “(2) On the date on which the Commission completes
25 its determinations under paragraph (1), the Commission

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

17 “(3) The provisional relief referred to in paragraph
18 (2) may include—

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

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

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

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

8 “(5)(A) The President shall proclaim any provisional
9 relief recommended by the Commission not later than 10
10 days after the date the President receives the report de-
11 scribed in paragraph (4) from the Trade Representative.

12 “(B) Any provisional relief proclaimed by the Presi-
13 dent pursuant to a determination of critical circumstances
14 shall remain in effect for a period not to exceed 200 days.

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

20 (7) in subsection (j)—

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

24 (B) by striking paragraph (2) and insert-
25 ing the following:

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

10 (8) in subsection (k)—

11 (A) in the heading, by striking “STAND-
12 ARD FOR PRESIDENTIAL ACTION” and inserting
13 “TIMING FOR PRESIDENTIAL ACTION; EXCEP-
14 TIONS”;

15 (B) in paragraph (1), by striking “a rec-
16 ommendation from the Trade Representative”
17 and all that follows to the end period and in-
18 serting “a report from the Trade Representa-
19 tive under subsection (h)(2), the President
20 shall, pursuant to subsection (a), proclaim the
21 relief recommended by the Commission”; and

22 (C) by amending paragraph (2) to read as
23 follows:

24 “(2) The President may decline to proclaim relief
25 pursuant to subsection (a), may proclaim relief pursuant

1 to subsection (a) that differs from the relief recommended
2 by the Commission, may decline to proclaim provisional
3 relief pursuant to subsection (i), or may proclaim provi-
4 sional relief pursuant to subsection (i) that differs from
5 the relief recommended by the Commission—

6 “(A) only in extraordinary cases; and

7 “(B) only if the President determines that pro-
8 viding relief or provisional relief pursuant to sub-
9 section (a) or (i) or providing the relief rec-
10 ommended by the Commission pursuant to sub-
11 section (a) or (i)—

12 “(i) would have an adverse impact on the
13 United States economy that clearly and signifi-
14 cantly outweighs the benefits of such action; or

15 “(ii) would cause serious harm to the na-
16 tional security of the United States.”;

17 (9) in subsection (l), by amending paragraph
18 (1) to read as follows:

19 “(1) The President’s decision under subsection (k)
20 shall be submitted to the Committee on Finance of the
21 Senate and the Committee on Ways and Means of the
22 House of Representatives and shall be published in the
23 Federal Register within 15 days of the decision. In the
24 submission to the committees and in publication in the
25 Federal Register, the President shall include the reasons

1 for the decision and the scope and duration of any action
2 taken. If the President takes action that differs from the
3 action recommended by the Commission under subsection
4 (f) or declines to take action pursuant to subsection
5 (k)(2), the President shall state in detail the reasons for
6 such action or inaction.”;

7 (10) by redesignating subsections (m) through
8 (o) as subsections (n) through (p), respectively;

9 (11) by inserting after subsection (l) the fol-
10 lowing new subsection:

11 “(m) IMPLEMENTATION OF ACTION RECOMMENDED
12 BY COMMISSION.—(1) If the President takes action that
13 differs from the action recommended by the Commission
14 under subsection (f) or declines to take action pursuant
15 to subsection (k)(2)(B)(i), the action recommended by the
16 Commission under subsection (f) shall take effect (as pro-
17 vided in subsection (n)(2)) upon the enactment of a joint
18 resolution described in paragraph (2) within the 90-day
19 period beginning on the date on which the President’s de-
20 cision is transmitted to the Congress pursuant to sub-
21 section (l).

22 “(2) For purposes of this section, the term ‘joint res-
23 olution’ means a joint resolution of the 2 Houses of the
24 Congress, the sole matter after the resolving clause of
25 which is as follows: ‘That the Congress does not approve

1 the action taken by, or the determination of, the President
2 under section 421 of the Trade Act of 1974, notice of
3 which was transmitted to the Congress on
4 _____.’, with the blank space being filled with the
5 appropriate case number and date.

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

10 (12) in subsection (n), as redesignated, by
11 striking “Import relief under this section” and all
12 that follows to the end period and inserting the fol-
13 lowing:

14 “(1) Except as provided in paragraph (2), import re-
15 lief under this section shall take effect not later than 15
16 days after the President’s determination to provide such
17 relief.

18 “(2) If the action recommended by the Commission
19 takes effect pursuant to subsection (m), the President
20 shall, within 15 days after the date of the enactment of
21 the joint resolution referred to in subsection (m), proclaim
22 the action recommended by the Commission under sub-
23 section (f). Such action shall take effect not later than
24 15 days after the date of the President’s proclamation.”;

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

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

3 (B) in paragraph (3), by inserting “or
4 (m)” after “subsection (k)”; and
5 (14) in subsection (p), as redesignated—

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

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

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