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114TH CONGRESS
1ST SESSION

S. 433

To establish a benefit calculation methodology with respect to currency undervaluation for purposes of countervailing duty investigations and reviews, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 10, 2015

Mr. SESSIONS (for himself, Mr. BROWN, Mr. GRAHAM, Mr. SCHUMER, Mr. BURR, Ms. STABENOW, Ms. COLLINS, Mr. CASEY, Mr. DONNELLY, and Mr. PORTMAN) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To establish a benefit calculation methodology with respect to currency undervaluation for purposes of countervailing duty investigations and reviews, and for other purposes.

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 ''Currency Undervaluation Investigation Act''.

SEC. 2. INVESTIGATION OR REVIEW OF CURRENCY UNDERVALUATION UNDER COUNTERVAILING DUTY LAW.

Subsection (c) of section 702 of the Tariff Act of 1930 (19 U.S.C. 1671a(c)) is amended by adding at the end the following:

"(6) CURRENCY UNDERVALUATION.—For purposes of a countervailing duty investigation under this subtitle in which the determinations under clauses (i) and (ii) of paragraph (1)(A) are affirmative, or a review under subtitle C with respect to a countervailing duty order, the administering authority shall initiate an investigation to determine whether currency undervaluation by the government of a country or any public entity within the territory of a country is providing, directly or indirectly, a countervailable subsidy, if—

"(A) a petition filed by an interested party (described in subparagraph (C), (D), (E), (F), or (G) of section 771(9)) alleges the elements necessary for the imposition of the duty imposed by section 701(a); and

"(B) the petition is accompanied by information reasonably available to the petitioner supporting those allegations.".

SEC. 3. BENEFIT CALCULATION METHODOLOGY WITH RESPECT TO CURRENCY UNDERVALUATION.

Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) is amended by adding at the end the following:

"(37) CURRENCY UNDERVALUATION BENEFIT.—

"(A) CURRENCY UNDERVALUATION BENEFIT.—For purposes of a countervailing duty investigation under subtitle A, or a review under subtitle C with respect to a countervailing duty order, the following shall apply:

"(i) IN GENERAL.—If the administering authority determines to investigate whether currency undervaluation provides a countervailable subsidy, the administering authority shall determine whether there is a benefit to the recipient of that subsidy and measure such benefit by comparing the simple average of the real exchange rates derived from application of the macroeconomic-balance approach and the equilibrium-real-exchange-rate approach to the official daily exchange rate identified by the administering authority.

"(ii) RELIANCE ON DATA.—In making the determination under clause (i), the ad-

ministering authority shall rely upon data that are publicly available, reliable, and compiled and maintained by the International Monetary Fund or the World Bank, or other international organizations or national governments if data from the International Monetary Fund or World Bank are not available.

''(B) DEFINITIONS.—In this paragraph:

''(i) MACROECONOMIC-BALANCE APPROACH.—The term 'macroeconomic-balance approach' means a methodology under which the level of undervaluation of the real effective exchange rate of the currency of the exporting country is defined as the change in the real effective exchange rate needed to achieve equilibrium in the balance of payments of the exporting country, as such methodology is described in the guidelines of the International Monetary Fund's Consultative Group on Exchange Rate Issues, if available.

''(ii) EQUILIBRIUM-REAL-EXCHANGE-RATE APPROACH.—The term 'equilibrium-real-exchange-rate approach' means a

methodology under which the level of undervaluation of the real effective exchange rate of the currency of the exporting country is defined as the difference between the observed real effective exchange rate and the real effective exchange rate, as such methodology is described in the guidelines of the International Monetary Fund's Consultative Group on Exchange Rate Issues, if available.

"(iii) REAL EXCHANGE RATES.—The term 'real exchange rates' means the bilateral exchange rates derived from converting the trade-weighted multilateral exchange rates yielded by the macroeconomic-balance approach and the equilibrium-real-exchange-rate approach into real bilateral terms.".

SEC. 4. MODIFICATION OF DEFINITION OF SPECIFICITY WITH RESPECT TO EXPORT SUBSIDY.

Section 771(5A)(B) of the Tariff Act of 1930 (19 U.S.C. 1677(5A)(B)) is amended by adding at the end the following new sentence: "The fact that a subsidy may also be provided in circumstances that do not involve export shall not, for that reason alone, mean that the sub-

sidy cannot be considered contingent upon export performance.''.

SEC. 5. APPLICATION TO CANADA AND MEXICO.

Pursuant to article 1902 of the North American Free Trade Agreement and section 408 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3438), the amendments made by this Act shall apply with respect to goods from Canada and Mexico.

SEC. 6. EFFECTIVE DATE.

The amendments made by this Act apply to countervailing duty investigations initiated under subtitle A of title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) and reviews initiated under subtitle C of title VII of such Act (19 U.S.C. 1675 et seq.)—

(1) before the date of the enactment of this Act, if the investigation or review is pending a final determination as of such date of enactment; and

(2) on or after such date of enactment.

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