

112TH CONGRESS
2D SESSION

S. 2153

To apply the countervailing duty provisions of the Tariff Act of 1930 to nonmarket economy countries, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 5, 2012

Mr. BAUCUS (for himself, Mr. THUNE, Mr. BROWN of Ohio, Mr. McCONNELL, Ms. STABENOW, Mr. COBURN, Mr. ROCKEFELLER, Ms. COLLINS, Mr. CASEY, Mr. PORTMAN, Mr. CARPER, Mr. SESSIONS, Mr. MENENDEZ, Mrs. GILLIBRAND, Mr. NELSON of Florida, Mr. MERKLEY, Mr. GRAHAM, Mr. ROBERTS, Mr. LEVIN, Ms. SNOWE, Mr. BURR, Mrs. McCASKILL, and Mr. HELLER) introduced the following bill; which was read twice, considered, read the third time, and passed

A BILL

To apply the countervailing duty provisions of the Tariff Act of 1930 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,*

1 **SECTION 1. APPLICATION OF COUNTERVAILING DUTY PRO-**
2 **VISIONS TO NONMARKET ECONOMY COUN-**
3 **TRIES.**

4 (a) IN GENERAL.—Section 701 of the Tariff Act of
5 1930 (19 U.S.C. 1671) is amended by adding at the end
6 the following:

7 “(f) APPLICABILITY TO PROCEEDINGS INVOLVING
8 NONMARKET ECONOMY COUNTRIES.—

9 “(1) IN GENERAL.—Except as provided in para-
10 graph (2), the merchandise on which countervailing
11 duties shall be imposed under subsection (a) includes
12 a class or kind of merchandise imported, or sold (or
13 likely to be sold) for importation, into the United
14 States from a nonmarket economy country.

15 “(2) EXCEPTION.—A countervailing duty is not
16 required to be imposed under subsection (a) on a
17 class or kind of merchandise imported, or sold (or
18 likely to be sold) for importation, into the United
19 States from a nonmarket economy country if the ad-
20 ministering authority is unable to identify and meas-
21 ure subsidies provided by the government of the non-
22 market economy country or a public entity within
23 the territory of the nonmarket economy country be-
24 cause the economy of that country is essentially
25 comprised of a single entity.”.

1 (b) EFFECTIVE DATE.—Subsection (f) of section 701
2 of the Tariff Act of 1930, as added by subsection (a) of
3 this section, applies to—

4 (1) all proceedings initiated under subtitle A of
5 title VII of that Act (19 U.S.C. 1671 et seq.) on or
6 after November 20, 2006;

7 (2) all resulting actions by U.S. Customs and
8 Border Protection; and

9 (3) all civil actions, criminal proceedings, and
10 other proceedings before a Federal court relating to
11 proceedings referred to in paragraph (1) or actions
12 referred to in paragraph (2).

13 **SEC. 2. ADJUSTMENT OF ANTIDUMPING DUTY IN CERTAIN**
14 **PROCEEDINGS RELATING TO IMPORTS FROM**
15 **NONMARKET ECONOMY COUNTRIES.**

16 (a) IN GENERAL.—Section 777A of the Tariff Act
17 of 1930 (19 U.S.C. 1677f–1) is amended by adding at
18 the end the following:

19 “(f) ADJUSTMENT OF ANTIDUMPING DUTY IN CER-
20 TAIN PROCEEDINGS RELATING TO IMPORTS FROM NON-
21 MARKET ECONOMY COUNTRIES.—

22 “(1) IN GENERAL.—If the administering au-
23 thority determines, with respect to a class or kind of
24 merchandise from a nonmarket economy country for

1 which an antidumping duty is determined using nor-
2 mal value pursuant to section 773(c), that—

3 “(A) pursuant to section 701(a)(1), a
4 countervailable subsidy (other than an export
5 subsidy referred to in section 772(c)(1)(C)) has
6 been provided with respect to the class or kind
7 of merchandise,

8 “(B) such countervailable subsidy has been
9 demonstrated to have reduced the average price
10 of imports of the class or kind of merchandise
11 during the relevant period, and

12 “(C) the administering authority can rea-
13 sonably estimate the extent to which the
14 countervailable subsidy referred to in subpara-
15 graph (B), in combination with the use of nor-
16 mal value determined pursuant to section
17 773(c), has increased the weighted average
18 dumping margin for the class or kind of mer-
19 chandise,

20 the administering authority shall, except as provided
21 in paragraph (2), reduce the antidumping duty by
22 the amount of the increase in the weighted average
23 dumping margin estimated by the administering au-
24 thority under subparagraph (C).

1 “(2) MAXIMUM REDUCTION IN ANTIDUMPING
2 DUTY.—The administering authority may not reduce
3 the antidumping duty applicable to a class or kind
4 of merchandise from a nonmarket economy country
5 under this subsection by more than the portion of
6 the countervailing duty rate attributable to a
7 countervailable subsidy that is provided with respect
8 to the class or kind of merchandise and that meets
9 the conditions described in subparagraphs (A), (B),
10 and (C) of paragraph (1).”.

11 (b) EFFECTIVE DATE.—Subsection (f) of section
12 777A of the Tariff Act of 1930, as added by subsection
13 (a) of this section, applies to—

14 (1) all investigations and reviews initiated pur-
15 suant to title VII of that Act (19 U.S.C. 1671 et
16 seq.) on or after the date of the enactment of this
17 Act; and

18 (2) subject to subsection (c) of section 129 of
19 the Uruguay Round Agreements Act (19 U.S.C.
20 3538), all determinations issued under subsection
21 (b)(2) of that section on or after the date of the en-
22 actment of this Act.

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