

106TH CONGRESS
1ST SESSION

S. 1099

To establish a mechanism for using the duties imposed on products of countries that fail to comply with WTO dispute resolution decisions to provide relief to injured domestic producers.

IN THE SENATE OF THE UNITED STATES

MAY 20, 1999

Mr. BAUCUS (for himself, Mr. BINGAMAN, Mr. DORGAN, Mr. KERREY, Mr. JOHNSON, and Mr. DASCHLE) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To establish a mechanism for using the duties imposed on products of countries that fail to comply with WTO dispute resolution decisions to provide relief to injured domestic producers.

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 “Trade Injury Com-
5 pensation Act of 1999”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) United States goods and services compete in
2 global markets and it is necessary for trade agree-
3 ments to promote such competition.

4 (2) The current dispute resolution mechanism
5 of the World Trade Organization is designed to re-
6 solve disputes in a manner that brings stability and
7 predictability to world trade.

8 (3) When foreign countries refuse to comply
9 with a panel or Appellate Body report of the World
10 Trade Organization and violate any of the Uruguay
11 Round Agreements, it has a deleterious effect on the
12 United States economy.

13 (4) A WTO member can retaliate against a
14 country that refuses to implement a panel or Appel-
15 late Body report by imposing additional duties of up
16 to 100 percent on goods imported from the noncom-
17 plying country.

18 (5) In cases where additional duties are im-
19 posed on imported goods, the duties should be used
20 to provide relief to the industry that is injured by
21 the noncompliance.

22 **SEC. 3. DEFINITIONS.**

23 In this Act:

24 (1) **AGRICULTURAL COMMODITY.**—The term
25 “agricultural commodity” has the meaning given the

1 term by section 102 (1) of the Agricultural Trade
2 Act of 1978 (7 U.S.C. 5602(1)).

3 (2) INJURED AGRICULTURAL COMMODITY PRO-
4 DUCER.—The term “injured agricultural commodity
5 producer” means a domestic producer of an agricul-
6 tural commodity with respect to which a dispute res-
7 olution proceeding has been brought before the
8 World Trade Organization, if the dispute resolution
9 is resolved in favor of the agricultural commodity
10 producer, and the foreign country against which the
11 proceeding has been brought has failed to comply
12 with the report of the panel or Appellate Body of the
13 WTO.

14 (3) INJURED PRODUCER.—The term “injured
15 producer” means a domestic producer of a product
16 (other than an agricultural product) with respect to
17 which a dispute resolution proceeding has been
18 brought before the World Trade Organization, if the
19 dispute resolution is resolved in favor of the pro-
20 ducer, and the foreign country against which the
21 proceeding has been brought has failed to comply
22 with the report of the panel or Appellate Body of the
23 WTO.

24 (4) RETALIATION LIST.—The term “retaliation
25 list” means the list of products of a foreign country

1 that has failed to comply with the report of the
2 panel or Appellate Body of the WTO and with re-
3 spect to which the United States Trade Representa-
4 tive is imposing duties above the level that would
5 otherwise be imposed under the Harmonized Tariff
6 Schedule of the United States.

7 (5) URUGUAY ROUND AGREEMENTS.—The term
8 “Uruguay Round Agreements” has the meaning
9 given such term in section 2(7) of the Uruguay
10 Round Agreements Act (19 U.S.C. 3501(7)).

11 (6) WORLD TRADE ORGANIZATION.—The term
12 “World Trade Organization” means the organization
13 established pursuant to the WTO Agreement.

14 (7) WTO AGREEMENT.—The term “WTO
15 Agreement” means the Agreement Establishing The
16 World Trade Organization entered into on April 15,
17 1994.

18 (8) WTO AND WTO MEMBER.—The terms
19 “WTO” and “WTO member” have the meanings
20 given those terms in section 2 of the Uruguay
21 Round Agreements Act (19 U.S.C. 3501).

22 **SEC. 4. TRADE INJURY COMPENSATION TRUST FUND.**

23 (a) ESTABLISHMENT.—There is established in the
24 Treasury of the United States a fund to be known as the
25 “Trade Injury Compensation Trust Fund” (referred to in

1 this Act as the “Fund”) consisting of such amounts as
2 may be appropriated to the Fund under subsection (b) and
3 any amounts credited to the Fund under subsection (c)(2).

4 (b) TRANSFER OF AMOUNTS EQUIVALENT TO CER-
5 TAIN DUTIES.—

6 (1) IN GENERAL.—There are hereby appro-
7 priated and transferred to the Fund an amount
8 equal to the amount received in the Treasury as a
9 result of the imposition of additional duties imposed
10 on the products on a retaliation list.

11 (2) TRANSFERS BASED ON ESTIMATES.—The
12 amounts required to be transferred under paragraph
13 (1) shall be transferred at least quarterly from the
14 general fund of the Treasury to the Fund on the
15 basis of estimates made by the Secretary of the
16 Treasury. Proper adjustment shall be made in
17 amounts subsequently transferred to the extent prior
18 estimates were in excess of or less than the amounts
19 required to be transferred.

20 (c) INVESTMENT OF TRUST FUND.—

21 (1) IN GENERAL.—The Secretary of the Treas-
22 ury shall invest such portion of the Fund as is not,
23 in the Secretary’s judgment, required to meet cur-
24 rent withdrawals. Such investments may be made
25 only in interest-bearing obligations of the United

1 States or in obligations guaranteed as to both prin-
2 cipal and interest by the United States.

3 (2) CREDITS TO FUND.—The interest on, and
4 the proceeds from the sale or redemption of, any ob-
5 ligations held in the Fund shall be credited to and
6 form a part of the Fund.

7 (d) DISTRIBUTIONS FROM FUND.—Amounts in the
8 Fund shall be available as provided in appropriations Acts,
9 for making distributions in accordance with subsections
10 (e) and (f).

11 (e) CRITERIA FOR DETERMINING INJURED PRO-
12 DUCERS AND AMOUNT TO BE PAID.—Not later than 30
13 days after the implementation of a retaliation list, the Sec-
14 retary of the Treasury, in consultation with the Secre-
15 taries of Agriculture and Commerce, shall promulgate
16 such regulations as may be necessary to carry out the pro-
17 visions of this Act. The regulations shall include the fol-
18 lowing:

19 (1) Procedures for identifying injured producers
20 and injured producers of agricultural commodities.

21 (2) Standards for determining the eligibility of
22 injured producers and injured producers of agricul-
23 tural commodities to participate in the distribution
24 of any money from the Fund.

1 (3) Procedures for determining the amount of
2 the distribution each injured producer and injured
3 producers of agricultural commodities should be
4 paid.

5 (4) Procedures for establishing separate ac-
6 counts for duties collected with respect to each retal-
7 iation list and for making distributions to the group
8 of injured producers and injured producers of agri-
9 cultural commodities with respect to each such retal-
10 iation list.

11 (f) DISTRIBUTION TO INJURED PRODUCERS.—

12 (1) DISTRIBUTION TO AGRICULTURAL PRO-
13 DUCERS.—The Secretary of the Treasury shall
14 transfer to the Secretary of Agriculture such sums
15 as may be transferred or credited to the Fund as the
16 result of items on a retaliation list because of injury
17 to producers of agricultural commodities. The Sec-
18 retary of Agriculture shall distribute to each injured
19 producer of an agricultural commodity that the Sec-
20 retary determines is eligible a portion of the amount
21 so transferred. The distribution shall be made in ac-
22 cordance with the subsection (e) and shall be used
23 by the producers for the promotion and development
24 of products of the injured producers.

1 (2) DISTRIBUTION TO OTHER INJURED PRO-
2 DUCERS.—The Secretary of the Treasury shall
3 transfer to the Secretary of Commerce such sums as
4 may be transferred or credited to the Fund as the
5 result of items on a retaliation list because of injury
6 to producers (other than producers of agricultural
7 commodities). The Secretary of Commerce shall dis-
8 tribute to each injured producer (other than a pro-
9 ducer described in paragraph (1)) that the Secretary
10 determines is eligible a portion of the amount so
11 transferred. The distribution shall be made in ac-
12 cordance with subsection (e) and in accordance with
13 the procedures applicable to the provision of assist-
14 ance under chapter 3 of title II of the Trade Act of
15 1974 (19 U.S.C. 2341 et seq.).

16 (g) REPORT TO CONGRESS.—The Secretary of the
17 Treasury shall, after consultation with the Secretaries of
18 Agriculture and Commerce, submit a report to the Con-
19 gress each year on—

20 (1) the financial condition and the results of
21 the operations of the Fund during the preceding fis-
22 cal year; and

23 (2) the expected condition and operations of the
24 Fund during the fiscal year following the fiscal year
25 that is the subject of the report.

1 **SEC. 5. PROHIBITION ON REDUCING SERVICES OR FUNDS.**

2 No payment made to an injured producer or an in-
3 jured agricultural commodity producer under this Act
4 shall result in the reduction or denial of any service or
5 assistance with respect to which the injured producer or
6 injured agricultural commodity producer would otherwise
7 be entitled.

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