

109TH CONGRESS
1ST SESSION

H. R. 4217

To amend the Tariff Act of 1930 to allow United States manufacturers that use products subject to countervailing or antidumping duty proceedings or use domestic like products to participate in those proceedings as interested parties, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 3, 2005

Mr. KNOLLENBERG (for himself, Mr. BLUNT, Mr. MORAN of Virginia, Mr. CAMP, Mr. KIND, Mr. ROGERS of Michigan, Mr. HOEKSTRA, Mr. RAMSTAD, Mr. DREIER, Mr. BOEHNER, Mrs. MILLER of Michigan, Mr. McCOTTER, Mr. MANZULLO, Mr. KIRK, Mr. UPTON, Mr. RYAN of Wisconsin, Mr. KENNEDY of Minnesota, and Mr. EHLERS) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Tariff Act of 1930 to allow United States manufacturers that use products subject to countervailing or antidumping duty proceedings or use domestic like products to participate in those proceedings as interested parties, 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 “American Manufac-
5 turing Competitiveness Act”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds the following:

3 (1) The competitiveness of manufacturing in-
4 dustries in the United States must be a priority for
5 the United States Government.

6 (2) Antidumping and countervailing duty laws
7 of the United States are in the interest of the
8 United States, when applied in an objective and fair
9 manner, to prevent unfair pricing and subsidized
10 competition.

11 (3) Imposing antidumping and countervailing
12 duties may harm United States industrial users of
13 imported goods or domestic like products, because
14 those users rely on such goods to manufacture prod-
15 ucts in the United States.

16 (4) Current law does not permit United States
17 industrial users to participate fully in antidumping
18 or countervailing duty cases that might affect their
19 businesses substantially; nor can decisionmakers in
20 these cases consider, under United States law, the
21 effects on United States industrial users in deter-
22 mining whether to impose antidumping or counter-
23 vailing duties.

24 (5) It is a matter of fundamental fairness that
25 businesses in the United States that may be affected
26 by antidumping and countervailing duties should be

1 able to participate meaningfully in the process by
2 which decisions regarding those duties are made.

3 (6) In order to ensure economically sound deci-
4 sions and the health of United States manufactur-
5 ers, the benefits of imposing antidumping and coun-
6 tervailing duties should be balanced against the eco-
7 nomic harm caused by imposing those duties, and
8 antidumping and countervailing duties should not be
9 imposed if the harm is greater than the benefits of
10 imposing such duties.

11 **SEC. 3. PARTICIPATION OF INDUSTRIAL USERS IN COUN-**
12 **TERVAILING AND ANTIDUMPING DUTY PRO-**
13 **CEEDINGS.**

14 Title VII of the Tariff Act of 1930 (19 U.S.C. 1671
15 et seq.) is amended as follows:

16 (1) Section 701(a) (19 U.S.C. 1671(a)) is
17 amended—

18 (A) by striking “and” at the end of para-
19 graph (1);

20 (B) by adding “and” after “merchandise
21 for importation,” at the end of paragraph (2);
22 and

23 (C) by inserting after paragraph (2) the
24 following:

1 “(3) the Commission determines that the im-
2 position of a countervailing duty on such merchandise
3 equal to the amount of the net countervailable sub-
4 sidy would result in greater benefits to that United
5 States industry than harm to United States indus-
6 trial users,”.

7 (2) Section 702(b)(4)(B) (19 U.S.C.
8 1671a(b)(4)(B)) is amended by striking “or (G)”
9 and inserting “(G), or (H)”.

10 (3) Section 703 (19 U.S.C. 1671b) is amend-
11 ed—

12 (A) in subsection (a)(1), in the first sen-
13 tence, by striking “and that imports of the sub-
14 ject merchandise are not negligible” and insert-
15 ing “, that imports of the subject merchandise
16 are not negligible, and that the imposition of a
17 countervailing duty on the subject merchandise
18 equal to the amount of the net countervailable
19 subsidy would result in greater benefits to that
20 United States industry than harm to United
21 States industrial users”; and

22 (B) in subsection (b)(3), by striking “or
23 (G)” each place it appears and inserting “(G),
24 or (H)”.

1 (4) Section 704(a)(2)(B) (19 U.S.C.
2 1671c(a)(2)(B)) is amended—

3 (A) in clause (i), by inserting “(other than
4 United States industrial users)” after “con-
5 sumers”;

6 (B) by striking “and” at the end of clause
7 (ii);

8 (C) by striking the period at the end of
9 clause (iii) and inserting “; and”; and

10 (D) by adding after clause (iii) the fol-
11 lowing:

12 “(iv) the relative impact on the com-
13 petitiveness of United States industrial
14 users, including, but not limited to, any
15 such impact on employment by and invest-
16 ment in United States industrial users.”.

17 (5) Section 704(g)(2) (19 U.S.C. 1671c(g)(2))
18 is amended by striking “or (G)” and inserting “(G),
19 or (H)”.

20 (6) Section 704(h)(1) (19 U.S.C. 1671c(h)(1))
21 is amended by striking “or (G)” and inserting “(G),
22 or (H)”.

23 (7) Section 705(b)(1) (19 U.S.C. 1671d(b)(1))
24 is amended in the first sentence, by inserting before
25 the period the following: “, and whether the imposi-

1 tion of a countervailing duty on the subject mer-
2 chandise in an amount equal to the net
3 countervailable subsidy would result in greater bene-
4 fits to that United States industry than harm to
5 United States industrial users”.

6 (8) Section 731 (19 U.S.C. 1673) is amended—

7 (A) by striking “and” at the end of para-
8 graph (1);

9 (B) by adding “and” after “that merchan-
10 dise for importation,” at the end of paragraph
11 (2); and

12 (C) by inserting after paragraph (2) the
13 following:

14 “(3) the Commission determines that the impo-
15 sition of an antidumping duty on the subject mer-
16 chandise under this subtitle would result in greater
17 benefits to that United States industry than harm to
18 United States industrial users,”.

19 (9) Section 732(b)(3)(B) (19 U.S.C.
20 1673a(b)(3)(B)) is amended by striking “or (G)”
21 and inserting “(G), or (H)”.

22 (10) Section 733 19 U.S.C. 1673b) is amend-
23 ed—

24 (A) in subsection (a), in the first sentence,
25 by striking “and that imports of the subject

1 merchandise are not negligible” and inserting “,
2 that imports of the subject merchandise are not
3 negligible, and that the imposition of an anti-
4 dumping duty on the subject merchandise
5 under this subtitle would result in greater bene-
6 fits to that United States industry than harm
7 to United States industrial users”; and

8 (B) in subsection (b)(2), by striking “or
9 (G)” each place it appears and inserting “(G),
10 or (H)”.

11 (11) Section 734(a)(2)(B) (19 U.S.C.
12 1673c(a)(2)(B)) is amended—

13 (A) in clause (i), by inserting “(other than
14 United States industrial users)” after “con-
15 sumers”;

16 (B) by striking “and” at the end of clause
17 (ii);

18 (C) by striking the period at the end of
19 clause (iii) and inserting “; and”; and

20 (D) by adding after clause (iii) the fol-
21 lowing:

22 “(iv) the relative impact on the com-
23 petitiveness of United States industrial
24 users, including, but not limited to, any

1 such impact on employment by and invest-
2 ment in United States industrial users.”.

3 (12) Section 734(g)(2) (19U.S.C. 1673e(g)(2))
4 is amended by striking “or (G)” and inserting “(G),
5 or (H)”.

6 (13) Section 734(h)(1) (19 U.S.C. 1673e(h)(1))
7 is amended by striking “or (G)” and inserting “(G),
8 or (H)”.

9 (14) Section 735(b)(1) (19 U.S.C. 1673d(b)(1))
10 is amended in the first sentence, by inserting before
11 the period the following: “, and whether the imposi-
12 tion of an antidumping duty on the subject mer-
13 chandise under this subtitle would result in greater
14 benefits to that United States industry than harm to
15 United States industrial users”.

16 (15) Section 736(c) (19 U.S.C. 1673e(c)) is
17 amended—

18 (A) in paragraph (1)(C), by inserting
19 “United States industrial user,” after “pro-
20 ducer,”; and

21 (B) in paragraph (4)(A), by striking “or
22 (G)” and inserting “(G), or (H)”.

23 (16) Section 751 (19 U.S.C. 1675) is amend-
24 ed—

25 (A) in subsection (b)(2)—

1 (i) in subparagraph (A), by inserting
2 after “material injury,” the following:
3 “and, if so, whether continuing the coun-
4 tervailing duty order or antidumping duty
5 order or finding would result in greater
6 benefits to the United States industry than
7 harm to United States industrial users,”;
8 and

9 (ii) in subparagraph (C), by inserting
10 after “material injury” the following: “,
11 and, if so, whether continuing the sus-
12 pended investigation would result in great-
13 er benefits to the United States industry
14 than harm to United States industrial
15 users”;

16 (B) in subsection (c)—

17 (i) in paragraph (1), by inserting be-
18 fore the period at the end the following: “,
19 and, if so, whether continuing the counter-
20 vailing duty order or antidumping duty
21 order, or continuing the suspended inves-
22 tigation, would result in greater benefits to
23 the United States industry than harm to
24 United States industrial users”;

1 (ii) in paragraph (3)(A), by striking
2 “and (G)” and inserting “(G), or (H)”;
3 and

4 (iii) in paragraph (4)—

5 (I) in subparagraph (A), by strik-
6 ing “or (B)” and inserting “, (B), or
7 (H)”; and

8 (II) in subparagraph (B), by in-
9 serting “described in section
10 771(9)(A) or (B)” after “an inter-
11 ested party”; and

12 (C) in subsection (d)(2)(B), by inserting
13 before the period the following: “and that con-
14 tinuation of the order, finding, or investigation,
15 as the case may be, would result in greater ben-
16 efits to the United States industry than harm
17 to United States industrial users”.

18 (17) Section 752(a)(1) (19 U.S.C. 1675a(a)(1))
19 is amended—

20 (A) in the first sentence, by inserting be-
21 fore the period the following: “, and, if so,
22 whether continuation of the order or investiga-
23 tion, as the case may be, would result in greater
24 benefits to the United States industry than
25 harm to United States industrial users”; and

1 (B) in the second sentence, by inserting
2 “and on United States industrial users” after
3 “industry”.

4 (18) Section 753(a)(1) (19 U.S.C. 1675b(a)(1))
5 is amended—

6 (A) by striking “or (G)” and inserting
7 “(G), or (H)”; and

8 (B) by inserting before the period the fol-
9 lowing: “, and, if so, whether imposition of the
10 countervailing duty would result in greater ben-
11 efits to the United States industry than harm
12 to United States industrial users”.

13 (19) Section 771 (19 U.S.C. 1677(9)) is
14 amended—

15 (A) in paragraph (9)—

16 (i) in subparagraph (F), by striking
17 “and” at the end;

18 (ii) in subparagraph (G), by striking
19 the period at the end and inserting “;
20 and”; and

21 (iii) by adding at the end the fol-
22 lowing:

23 “(H) a United States industrial user, or a
24 trade or business association a majority of

1 whose members are United States industrial
2 users.”; and

3 (B) by inserting after paragraph (9) the
4 following:

5 “(9A) UNITED STATES INDUSTRIAL USER.—
6 The term ‘United States industrial user’ means a
7 manufacturer or producer that uses subject mer-
8 chandise or a domestic like product in the manufac-
9 ture or production of any product in the United
10 States.”.

11 (20) Section 771 (19 U.S.C. 1677) is amended
12 by adding at the end the following new paragraph:

13 “(37) EVALUATION OF BENEFITS TO UNITED
14 STATES INDUSTRY AND HARM TO UNITED STATES
15 INDUSTRIAL USERS.—In considering the potential
16 benefits to the industry in the United States materi-
17 ally injured or threatened with material injury (in
18 this paragraph referred to as the ‘United States in-
19 dustry’), and harm to United States industrial users,
20 from the imposition or continuation of antidumping
21 or countervailing duties under sections 701(a),
22 703(a), 705(b), 731, 733(a), 735(b), 751(b), 751(c),
23 751(d), 752(a), and 753(a), the Commission shall
24 weigh harm to United States industrial users as a
25 whole, taking into account the following factors:

1 “(A) Likely harm to United States indus-
2 trial users from declines in output, sales, mar-
3 ket share, profits, productivity, return on in-
4 vestments, and utilization of capacity in the
5 production of downstream products, compared
6 to likely benefits to the United States industry
7 with respect to those factors.

8 “(B) Likely harm to United States indus-
9 trial users from negative impact on cash flow,
10 inventories, employment, wages, growth, ability
11 to raise capital, and investment, compared to
12 likely benefits to the United States industry
13 with respect to those factors.

14 “(C) Likely negative effects on the existing
15 development and production efforts of United
16 States industrial users, including efforts to de-
17 velop a derivative or more advanced version of
18 their products for manufacture or production in
19 the United States, compared to likely benefits
20 to the United States industry with respect to
21 those factors.

22 “(D) The effect of increased costs or prices
23 for the subject merchandise and domestic like
24 products and reduced availability of the subject
25 merchandise and domestic like products on the

1 competitiveness of United States industrial
2 users located in the market, including the ex-
3 tent to which United States industrial users
4 and their customers would be able to pass on
5 additional costs resulting from antidumping and
6 countervailing duties, compared to likely bene-
7 fits to the United States industry with respect
8 to those factors.

9 “(E) Such other economic factors as the
10 Commission determines are relevant to the po-
11 tential impact of the imposition or continuation
12 of duties, as the case may be, on the United
13 States industry and on United States industrial
14 users.

15 The Commission may determine harm to United
16 States industrial users only if United States indus-
17 trial users have presented credible evidence of such
18 harm.”.

19 (21) Section 777(h) (19 U.S.C. 1677f(h)) is
20 amended—

21 (A) by striking “AND INDUSTRIAL USERS”
22 in the subsection heading; and

23 (B) by striking “for industrial users of the
24 subject merchandise and, if the merchandise”

1 and inserting “, if the subject merchandise or
2 a domestic like product”.

3 (22) Section 782(i)(3)(A) (19 U.S.C.
4 1677m(i)(3)(A)) is amended by striking “or (G)”
5 and inserting “(G), or (H)”.

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