



Consuming Industries
Trade Action Coalition

www.citac-trade.org

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The CITAC Team:

Jon Jenson, Chairman,
216-524-8919

Janet Kopenhaver, Ex-
ecutive Director, 703-
528-7822

Lewis Leibowitz, Coun-
sel, 202-637-5638

Paul Nathanson and
Christina Bucher,
Press/Public Relations,
202-466-6210

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Action Coalition
1001 Connecticut Avenue, NW
Suite 1110
Washington, DC 20036
202-347-1085

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U.S. TRADE LAWS AFFECT CONSUMERS

We read with growing regularity how “unfair” imports are hurting U.S. producers of everything from steel beams to folding chairs. U.S. producers use trade remedy laws – antidumping (AD), countervailing duty (CVD), and safeguard (Section 201) laws – to attack competition from increased imports they deem unfair and injurious to their domestic industries. In 2001, 96 such cases were launched (95 AD and CVD cases, 1 Section 201 case). Trade investigations often result in import restraints – penalty duties or quotas. American consuming industries bear the cost of these restrictions by paying higher prices for imported products or dealing with quotas. Interestingly, they often do not burden foreign producers nearly as much as they do U.S. consuming industries.

To better understand how such investigations affect consuming industries, one must know a little about the process itself. Investigations are launched by petitions filed by U.S. producers (“interested parties”) against foreign producers or governments (also “interested parties”). Other “interested parties” include labor unions, importers, trade associations or coalitions, or wholesalers of the domestically-produced product. Consuming industries (e.g., purchasers) are *not* “interested parties.”

AD and CVD investigations are conducted by two government agencies: the U.S. International Trade Commission (ITC) and the Commerce Department. The ITC conducts Section 201 investigations. In all cases, the ITC evaluates whether or not U.S. producers are injured or likely to be injured by imports. In AD and CVD cases, Commerce decides whether or not there is dumping or illegal subsidization by foreign governments, and calculates the “dumping margins” or “CVD margins.” Both agencies send the various interested parties elaborate questionnaires seeking detailed data about the products, the industries, pricing, profits, and a host of other factors. The information is clearly sensitive and is submitted to the agencies in confidence. Only government investigators and lawyers and economists representing “interested parties” -- which, you will recall, does *not* include consuming industries,

can see these data and comment on them.

In addition, the process includes inadequate procedures for addressing situations of short supply in the U.S. market that can result when the imported product is no longer available. Current AD and CVD practice exempts products not made in the United States from penalty duties only on a permanent basis and then only if the petitioners consent. It does not require petitioners to provide a reason for refusing to agree to a product exclusion, even if they do not make the product in the United States.

CITAC'S RESPONSE

In August 2001 in response to concerns expressed by CITAC, Congressman Jim Kolbe (R-AZ) introduced, with Jim Moran (D-VA) and Jim Ramstad (R-MN), the "Transparency and

Fairness Trade Act" (H.R. 2770). The bill makes consuming industries "interested parties" in trade investigations. They would at last be able to make thoughtful and thorough contributions to the ITC and Commerce analyses of the reams of data and other confidential information submitted by parties in these investigations.

The bill also provides for a formal short-supply process that would enable consuming industries to seek authorization for the U.S. Government to temporarily exempt imports from antidumping or countervailing duties if the products are not made in the United States or are in short supply.

The bill has attracted growing interest from legislators who recognize its implicit fairness to consuming industries. Senate interest is strong as well.

Why We Need The Transparency and Fairness Trade Act

Consumers get a seat at the table. Under current law, foreign exporters have more opportunities to participate officially in trade cases than do American farmers or companies that will lose business as a result of trade restrictions on their inputs to production. That's neither fair nor wise, given the potential impact that trade restrictions have on the U.S. economy. The Transparency and Fairness Trade Act gives consuming industries an equal voice in the trade law process.

Support for U.S. trade laws needs to be broadened. The Transparency and Fairness Trade Act empowers *all* the stakeholders at risk when trade restrictions are considered, instead of excluding important segments of our domestic economy. It would therefore strengthen public support for trade laws and make them work better for everyone.

Meaningful provision must be made for products in "short supply." If a product affected by an import restraint is not made in the United States or not made in sufficient quantities, consuming industries are out of luck. Their current opportunities to exempt such products from the restraint are limited and usually unsuccessful. The Transparency and Fairness Trade Act will fix this significant problem.

U.S. exporters need it. U.S. trade laws, for better or for worse, are frequently the model upon which other countries base their trade laws. Consequently, when U.S. exporters face antidumping investigations in other countries, the unbalanced nature of U.S. laws comes back to haunt them. By broadening the trade law process to include all of the potential stakeholders and their concerns, the Transparency and Fairness Trade Act becomes an appropriate model for how other countries' trade laws should work.