

112TH CONGRESS
1st SESSION

H.R. _____

To improve the laws concerning judicial review of international trade and customs law matters, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. _____ introduced the following bill; which referred to the Committee on Ways and Means.

A BILL

To improve the laws concerning judicial review of international trade and customs law matters, and for other purposes.

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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 “United States Court of International Trade Modernization Act”

1
2 **TITLE I - AMENDMENTS TO THE**
3 **TARIFF ACT OF 1930**

4
5 **SEC. 101. INTEREST ON CERTAIN DEPOSITS OF MONEY.**

6
7 Subsection (c) of section 505 of the Tariff Act of 1930 (19
8 U.S.C. 1505(c)) is amended by adding the following material at the end
9 of the second sentence after “reconciliation”: “, or, in a case in which a
10 person deposits excess money as duties, taxes, fees, or drawback
11 overpayments under section 520(a)(3) of this Act, from the date on
12 which the money was deposited to the date of refund of the excess”.

13
14 **SEC. 102. PROTESTS AGAINST CUSTOMS AND BORDER**
15 **PROTECTION DECISIONS.**

16 (a) Section 514(a) of the Tariff Act of 1930 (19 U.S.C. 1514(a))
17 is amendedC

18 (1) in paragraph (4), by striking “except a determination
19 appealable under section 337 of this Act” and inserting “except any
20 determination under section 337 of the Tariff Act of 1930 for which
21 jurisdiction is specifically conferred upon the United States
22 International Trade Commission or upon the United States Court of
23 Appeals for the Federal Circuit pursuant to 28 U.S.C. section
24 1295(a)(6).”

25 (2) in paragraph (6), by striking “or” at the end;

1 (3) in paragraph 7, by inserting “or” at the end;

2 (4) by inserting after paragraph (7) the following new paragraph:

3 “(8) the refusal, after written request by the tendering party,
4 to refund any amount tendered as duties, taxes, fees, or
5 penalties under sections 592 or 593A of this Act that is in
6 excess of the amount lawfully owed;”

7 (b) Section 514 of the Tariff Act of 1930 (19 U.S.C.
8 1514) is amended by redesignating existing subsections (b) through
9 (l) as subsections (c) through (m), respectively, and by inserting the
10 following new subsection (b) after subsection (a):

11 “(b) Protest of Penalty Claims.

12 “A protest may be made of a decision under subsection (b)(2)
13 of section 592 of this Act (19 U.S.C. 1592) to issue a penalty
14 claim and of the contents thereof following the deemed denial
15 of a petition for remission or mitigation under section 618 of
16 this Act (19 U.S.C. 1618).”

17 (c) Subsection (d), as redesignated, of section 514 of the
18 Tariff Act of 1930 (19 U.S.C. 1514(d)(2)) is amended-

19 (1) in paragraph (1), by inserting “or (b)” after “A protest of a
20 decision made under subsection (a)”;

21 (2) in subparagraph (A) of paragraph (1), by inserting “or (b)”
22 after “subsection (a)”;

1 (3) in paragraph (1), by inserting “and a separate protest may be
2 filed with respect to each penalty claim under subsection (b) above”
3 after “a separate protest may be filed for each category”.

4 (4) in paragraph (2), by redesignating existing subparagraph (F)
5 as subparagraph (H);

6 (5) by striking “or” at the end of subparagraph (E) and inserting
7 after subparagraph (E) the following new subparagraphs:

8 “(F) any person seeking the refund of all or part of an amount
9 tendered as duties, taxes, fees, or penalties under sections 592
10 or 593A of this Act that is in excess of the amount lawfully
11 owed;

12 “(G) with respect to protest under subsection(b) of this section,
13 any person who is the subject of a penalty claim under
14 subsection(2)(b) of Section 592 or 593A of this Act; or”

15
16 (d) Subsection 514(d)(3), as redesignated, is amended by
17 inserting at the end thereof the following sentence: “A protest under
18 subsection(b) of this section shall be filed within 180 days after but
19 not before the date the protesting party’s petition for remission or
20 mitigation under section 618 of this Act is deemed denied.”

1 **SEC. 103. JUDICIAL REVIEW IN COUNTERVAILING**
2 **DUTY AND ANTIDUMPING PROCEEDINGS.**

3 Section 516A of the Tariff Act of 1930 (19 U.S.C. 1516a) is
4 amended B

5 (1) in subsection (c)—

6 (A) by inserting in paragraph (1) “or
7 suspended” after “enjoined by the court”;

8 (B) in paragraph (2) --

9 (i) by adding “Suspension of liquidation
10 and” before “injunctive relief”;

11 (ii) by designating the text in paragraph (2)
12 as subparagraph (B);

13 (iii) by inserting a new subparagraph (A) as
14 follows:

15 “(A) In the case of a determination
16 described in clause (iii) or (vi) of
17 subsection (a)(2)(B) of this section for
18 which judicial review is requested under
19 this section, liquidation of the entry of
20 merchandise that is covered by the action
21 is suspended and the administering
22 authority shall not issue instructions to
23 U.S. Customs and Border Protection

1 under section 751(a)(3)(B) of this Act for
2 those entries pending the final disposition
3 by the court, including all appeals. The
4 court may order the administering
5 authority to lift the suspension of
6 liquidation before the final decision by the
7 court, upon a request by a party for such
8 relief and a showing that the requested
9 relief should be granted under the
10 circumstances.”; and

11 (iv) in new subparagraph (B), by inserting “the
12 liquidation of which was not suspended as
13 provided in (A) of this subsection,” after “may
14 enjoin the liquidation of some or all entries of
15 merchandise covered by a determination of the
16 Secretary, the administering authority, the
17 Commission,”; and

18 (2) in subsection (e) –

19 (A) by inserting “or suspended” after “enjoined”
20 in subparagraph (2); and

21 (B) by inserting at the end “Any liquidation not in accordance
22 with the court decision is contrary to law. The Court will grant
23 appropriate relief to correct any liquidation not in accordance

1 with its decision or not completed in a reasonable time. The
2 administering authority will inform the parties to the Court
3 action of the rate of liquidation within 8 months of issuance of
4 the final court decision pursuant to 19 USC 1677f(c).”

5

6 **SEC. 104. REFUNDS OF EXCESS DEPOSITS OF MONEY**

7 Paragraph (3) of subsection (c) of Section 520 of the Tariff Act
8 of 1930 (19 U.S.C. § 1520(a)(3)) is amended by inserting after
9 “money” the following: “(including money deposited as duties, taxes,
10 fees, or drawback overpayments in connection with a penalty)”.

11

12 **SEC. 105. DEEMED DENIAL OF PETITIONS IN CERTAIN**
13 **CIVIL PENALTY CASES.**

14 Section 618 of the Tariff Act of 1930 is amended by designating
15 the existing provisions as subsection (a) and by inserting the following
16 new subsection (b) after subsection (a) as redesignated: “A request for
17 accelerated disposition of a petition for remission or mitigation of a
18 penalty under section 592 or 593a of this Act may be filed at any time
19 concurrent with or following the filing of such a petition. In any case in
20 which the Secretary of the Treasury or the Commissioner of Customs
21 does not issue a decision in response to such a petition within sixty (60)
22 days after receiving a request for accelerated disposition, the petition
23 shall be deemed to have been denied and the penalty claim under

1 section 592(b)(2) or 593a(b)(2) shall be subject to protest under section
2 514(b) of this Act.”

3
4 **SEC. 106. LIQUIDATION IN ANTIDUMPING AND**
5 **CONTERVAILING DUTY CASES**

6 Section 751(a)(3) of the Tariff Act of 1930 (19 U.S.C.
7 1675(a)(3)) is amended –

8 (1) in subsection (B) –

9 (A) by inserting at the beginning, “The suspension of
10 liquidation under section 733(d)(2) shall remain in effect until
11 time for appeal under section 516A has elapsed. At the
12 conclusion of this period, unless suspension of liquidation
13 remains in effect pursuant to section 516A(c)(2)A),”;

14 (B) by deleting “orders” and inserting “has ordered”
15 in its place;

16 (C) by deleting “such” after “paragraph (1)”;

17 (E) by inserting after “issued”, “The administering
18 authority must not issue liquidation instructions to Customs
19 until
20 the time for appeal under section 516A of this Act has
21 elapsed.”; and

22 (2) in subsection (C) –

1 (A) by striking “under section 516A(c)(2) of
2 this title” after “enjoined” and “under section 516A(g)(5)(c) of
3 this title” after “suspended”; and

4 (B) by inserting “under that section” after “suspended.”

5

6 **TITLE II - AMENDMENTS TO**
7 **TITLE 28, UNITED STATES CODE**

8

9 **SEC. 201. CIVIL ACTIONS AGAINST THE UNITED STATES.**

10 Section 1581 of title 28, United States Code, is amended—

11 (1) in subsection (g) B

12 (A) by amending paragraph (1) to read as follows:

13 “(1) any final decision of the Secretary of
14 Treasury under section 641 of the Tariff Act of 1930;
15 and”;

16 (B) by striking paragraph (2); and

17 (C) by redesignating paragraph (3) as paragraph (2).

18 (2) in subsection (i) C

19 (A) by striking “exception” and inserting

20 “exceptions” in its place;

21 (B) by renumbering paragraph (4) as paragraph (6);

22 (C) by inserting a new paragraph (4) as follows:

1 “(4) any prohibition or condition under the
2 jurisdiction of Customs and Border Protection on the
3 importation of merchandise;”;

4 (E) by inserting a new paragraph (5) as follows:

5 “(5) importation without otherwise applicable
6 duties, taxes, or fees on the importation of
7 merchandise, or deferral of such duties, taxes, or fees;
8 or”;

9 (F) in paragraph (6) as renumbered by subparagraph
10 (C), by striking “(3)” and inserting “(5)” in place
11 thereof; and

12 (3) in subsection (j), by inserting before the period “or any
13 civil action arising under section 337 of the Tariff Act of 1930 (19
14 U.S.C. 1337), for which jurisdiction is specifically conferred upon
15 the United States International Trade Commission or upon the
16 United States Court of Appeals for the Federal Circuit pursuant to
17 section 1295(a)(6) of this title”

18
19 **SEC. 202. CIVIL ACTIONS COMMENCED BY THE UNITED**
20 **STATES.**

21 Section 1582 of title 28, United States Code is amended to read as
22 follows:

1 **“§ 1582. Civil actions commenced by the United States**

2 “(a) The United States Court of International Trade shall
3 have exclusive jurisdiction of any civil action which is
4 commenced by the United StatesC

5 “(1) to recover a civil penalty under any provision of
6 the Tariff Act of 1930;

7 “(2) to recover a civil penalty arising from any
8 prohibition or condition under the jurisdiction of Customs
9 and Border Protection on the importation of merchandise;

10 “(3) to recover upon a bond relating to the
11 importation of merchandise required by the laws of the
12 United States or by the Secretary of the Treasury;

13 A(4) to recover customs duties; or

14 “(5) to enforce a summons under section 510 of the
15 Tariff Act of 1930 (19 U.S.C. 1510).

16 “(b) The United States Court of International Trade shall
17 have exclusive jurisdiction of any seizure of merchandise that
18 is imported or attempted to be imported, other than a seizure of
19 narcotics or other controlled substances, under any provision of
20 the Tariff Act of 1930 or any provision setting forth a
21 prohibition or condition under the jurisdiction Customs and
22 Border Protection on the importation of merchandise.

1 **SEC. 203. PERSONS ENTITLED TO COMMENCE A CIVIL**
2 **ACTION**

3 Section 2631(g) of title 28, United States Code, is amended B

4 (A) by amending paragraph (1) to read as follows:

5 “(1) A civil action to review any final decision of
6 the Secretary of the Treasury under section 641 of the
7 Tariff Act of 1930 may be commenced in the United
8 States Court of International Trade by the person
9 whose license or permit was suspended, revoked, or
10 denied, or by the person against whom the decision
11 was issued.”;

12 (B) by striking paragraph (2); and

13 (C) by redesignating paragraph (3) as paragraph (2).

14

15 **SEC. 204. TIME FOR COMMENCEMENT OF ACTION.**

16 Section 2636(g) of title 28, United States Code is amended to
17 read as follows B

18 “(g) A civil action contesting any final decision of the
19 Secretary of the Treasury under section 641 of the Tariff Act of
20 1930 is barred unless commenced in accordance with the rules
21 of the United States Court of International Trade within 60

1 days after the date of the entry of the final decision or order of
2 such Secretary.”

3

4 **SEC. 205. EXHAUSTION OF ADMINISTRATIVE**
5 **REMEDIES.**

6 Section 2637(a) of title 28, United States Code is amended by
7 adding the following sentence at the end thereof: “With respect to a
8 protest under section 514(b) of this Act, a civil action contesting the
9 denial of the protest may be commenced in the Court of International
10 Trade only if all duties, taxes, fees, penalties, and interest assessed
11 by Customs and Border Protection have been paid at the time the
12 action is commenced, but at the conclusion of the civil action the
13 Court shall order that any amount determined to be in excess of the
14 amount lawfully owed be refunded with interest as provided by law.”

15

1 **TITLE III - REFERENCES AND**
2 **EFFECTIVE DATE**

3 **SEC. 301. REFERENCES.**

4 Except as otherwise expressly provided in this Act, any reference
5 in this Act, including any amendment made by this Act, to the “Bureau
6 of Customs and Border Protection” or the “Customs Service” shall be
7 considered to be a reference to the U.S. Customs and Border Protection
8 of the Department of Homeland Security.

9 **SEC. 302. EFFECTIVE DATE.**

10 This Act and the amendments made by this Act shall take effect
11 on the date that is 60 days after the date of enactment of this Act.