

# **H.R. 6530, THE TRADE ENFORCEMENT ACT OF 2008**

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To promote a trade agenda that reflects American values, we need to ensure that U.S. workers, farmers, and businesses are getting a fair shake in the global marketplace and U.S. consumers have confidence that the products they buy are safe. H.R. 6530, the Trade Enforcement Act of 2008 will help make this possible. The bill will combat counterfeiting and piracy, improve import safety, promote market access for American goods and services and strengthen our trade remedies against unfair trade.

## **COMBAT COUNTERFEITING AND PIRACY; IMPROVE IMPORT SAFETY**

Some overseas governments and businesses are not playing by the rules. They are shipping pirated copies of American movies and music and producing counterfeit goods. They are sending products to the United States that violate our health and safety laws. To address these problems, the Trade Enforcement Act of 2008 will:

- **Enforce U.S. Intellectual Property Rights (IPR).** The bill creates a Director of IPR Enforcement and an IPR Enforcement advisory committee to advise on IPR enforcement issues; promotes the use of new technology to better fight intellectual property rights (IPR) infringement; creates a “watch list” for suspected bad actors; and prevents Customs from excusing fines assessed for illegal imports.
- **Improve Import Safety.** The bill creates a voluntary government-private sector import safety program; requires the use of “unique identifiers” to facilitate identifying the source of goods that pose health and safety threats; and establishes new sanctions for repeated non-compliance with U.S. health and safety laws.
- **Increase Staffing, Resources, Training and Coordination.** The bill authorizes the support, resources and training that Customs and Immigration and Customs Enforcement need and deserve to carry out their import safety and IPR enforcement responsibilities.

## **ELIMINATE BARRIERS TO AMERICAN EXPORTS**

America’s trading partners are running roughshod over our trade agreements. Unfortunately, the Bush Administration has failed to insist that our trading partners abide by the same rules we do. From 1995 through 2000, the United States filed an average of 11 WTO cases per year to open foreign markets for U.S. goods and services. From 2001 to the present, the United States has filed an average of just three cases per year. To ensure that our trading partners live up to their trade obligations, the Trade Enforcement Act of 2008 will:

- **Require USTR to Address Non-Tariff Barriers that Unfairly Shut Out U.S. Products.** U.S. exporters frequently face unfair non-tariff barriers to U.S. exports, including unjustifiable sanitary measures on agricultural products. The bill requires USTR to identify annually “priority foreign countries” with unfair barriers and take action.
- **Prioritize America’s Trade Enforcement Efforts.** The bill restores the “Super 301” provision signed into law by President Reagan and requires USTR to prioritize annually the most significant barriers to U.S. exports and work to eliminate them.

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- **Create Office of Congressional Trade Enforcer.** The Office will investigate barriers to U.S. exports, develop complaints against foreign countries and call on USTR to file cases.
- **Elevate USTR's General Counsel to Ambassadorial Rank.** The Senate-confirmed officer will work to ensure that our trading partners comply with their trade agreements.

## **RESTORE AND ENHANCE U.S. TRADE REMEDIES**

The trade remedy provisions in the bill will help to ensure that the United States *fully* utilizes its rights under the WTO to combat unfair trade. These provisions will not affect the vast majority of imports (e.g., only 0.3% of imports were subject to antidumping duties from 1980-2005). But they are critical to the American workers, farmers, and businesses who are hurt by unfairly traded imports. The bill will:

- **Lock in "CVD NME" and Ensure that Subsidies are Fully Counted.** In 2007, the Department of Commerce began applying countervailing duties ("CVDs") to unfairly subsidized and injurious imports from nonmarket economy countries ("NMEs"), like China. The bill locks in Commerce's change in practice; ensures that Commerce fully captures NME subsidy practices; and ensures that Congress has a role in determining when an NME should be treated as a market economy country.
- **Safeguard U.S. Industries' Interests.** Critical to Congress' approval of China's WTO entry was the inclusion of a safeguard mechanism providing temporary relief if Chinese imports caused market disruption to an industry in the United States. Four times, the independent International Trade Commission has recommended relief, and four times President Bush has refused to provide that relief; plants have closed and jobs have been lost as a result. The bill would limit the President's discretion to deny relief.
- **Fix Mandatory Offsets ("Zeroing") at Home and in WTO.** The WTO Appellate Body, contradicting successive WTO panels of trade experts, has imposed a new requirement not contained in the WTO agreements by mandating that the United States offset dumped sales with non-dumped sales. The bill contains a Sense of Congress that the Appellate Body should adhere to the WTO's strict requirement that the Appellate Body not create new rights or obligations. The Department of Commerce has stated that the WTO Appellate Body decisions are "devoid of legal merit," yet has nonetheless chosen to implement the decisions in ways that fail to capture the unfair trade practice. The bill overturns Commerce's decision and directs it to come up with an approach that captures fully the unfair trade practice.
- **Correct *Bratsk*.** The bill corrects the *Bratsk* decision, in which a U.S. court incorrectly interpreted U.S. antidumping or countervailing duty law.

**To restore confidence in our trading system, Americans need to know that they are getting a fair shake in the global marketplace. This confidence is critical if we are going to continue to open new markets to U.S. goods and services, promote jobs and opportunities at home, and foster the development of middle classes around the world. This isn't going to happen unless the United States exercises its trade leadership role to strengthen our rules-based multilateral trading system. H.R. 6530, the Trade Enforcement Act of 2008 will help to do just that.**