



## Legislative Bulletin.....July 27, 2005

### Contents:

**H.R. 3283** — United States Trade Rights Enforcement Act

### Summary of the Bills Under Consideration Today:

**Total Number of New Government Programs:** 0

**Total Cost of Discretionary Authorizations:** \$228.4 million over two years

**Effect on Revenue:** \$6 million increase over five years and a \$42 million increase over ten years

**Total Change in Mandatory Spending:** \$0 over five years (but a \$36 million increase over ten years)

**Total New State & Local Government Mandates:** 0

**Total New Private Sector Mandates:** 0

**Number of Bills Without Committee Reports:** 1

### **H.R. 3283—United States Trade Rights Enforcement Act (English)**

**Order of Business:** Yesterday, H.R. 3283 failed on the House floor, under a motion to suspend the rules and pass the bill, by a vote of 240-186 (two-thirds required for passage): <http://clerk.house.gov/evs/2005/roll421.xml>.

Today, the bill is scheduled to return to the House floor, subject to a closed rule (H.Res. 387). Automatically upon passage of the rule, a Bill Thomas (R-CA) amendment in the nature of a substitute will replace the entire text of yesterday's version of H.R. 3283. The new text is mostly the same as yesterday's but includes some technical and clarifying changes. Any noteworthy changes are indicated in **red-bold** below.

**Summary, as would be amended upon passage of the rule (H.Res. 387):** H.R. 3283:

- Specifically authorizes the application of the U.S. countervailing duty law (applying tariffs on goods that are subsidized or otherwise artificially propped up by foreign countries with market economies) to imports from nonmarket economies such as China, even when the relevant data on China is not directly available from China. *[Pursuant to an administrative decision upheld by the courts in the 1980s, the countervailing duty law has been ruled unusable against so-called nonmarket economies, based on the rationale that it is impossible to measure subsidies in an economy where prices are not market-based.]*
- Suspends for three years the availability of bonds for new shippers in antidumping cases and instead require cash deposits (presumably to minimize defaults). Requires a report from the affected federal departments on this suspension.
- Requires a report from the relevant federal departments on the major problems experienced in the collection of duties.
- Directs the Secretary of Commerce and the U.S. Trade Representative (USTR) to implement a system of “comprehensive monitoring” of Chinese compliance with its trade obligations (as detailed in the bill) regarding:
  - intellectual property rights;
  - market access in China for U.S. goods, services, and agriculture; and
  - an accounting of Chinese subsidies.
- This monitoring system would require the President to biannually (and more frequently in certain circumstances) report to Congress on:
  - the specific steps taken by the Chinese government to meet its trade obligations;
  - an analysis of whether China is attempting in good faith to meet such obligations; and
  - a description of the actions that the President will take (including pursuing U.S. rights under the dispute settlement provisions of the WTO) to secure Chinese compliance, if the President determines that China is failing to meet the obligations.
- Requires the Treasury Department to report to Congress on the definition of currency manipulation, the actions of foreign countries that would be considered to be currency manipulation, and how statutory provisions addressing currency manipulation could be “better clarified administratively to provide for improved and more predictable evaluation.”
- **Requires the Treasury Department, “in light of the recent positive announcement by the Government of the People’s Republic of China with respect to increased exchange rate flexibility,” to report to Congress within 180 days on the mechanism adopted by the Chinese Government to “relate its currency to a basket of foreign currencies and the degree to which the application of this**

**mechanism moves the currency closer to a market-based representation of its value.”**

- Authorizes an additional \$6 million per year for the USTR beyond the President’s budget request, for a total of \$44.78 million in FY2006 and \$47.02 million in FY2007.
- Authorizes an additional \$4 million for each of fiscal years 2006 and 2007 for the USTR’s offices of the General Counsel, the Office of Monitoring and Compliance, the Office of China Affairs, and the Office of Japan, Korea, and APEC Affairs.
- **Expresses a sense of Congress that the USTR should assign an existing enforcement position the title of Chief Enforcement Officer.**
- Authorizes \$62.75 million in FY2006 and \$65.89 in FY2007 for the U.S. International Trade Commission and requires the Commission to provide Congress with a detailed report on U.S.-China trade trends, including an emphasis on such matters as Chinese direct investment in the U.S., the effects of Chinese trade practices on “key” industries (including telecommunications, textiles, grains, and financial services), the importance of intellectual property rights issues in specific industries in China, the effects of China’s growing demand for energy on global commodity markets, and the extent to which importation from China displaces either domestic production or importation from other countries.

The bill also contains several dozen “findings” regarding trade disputes and international market distortions, especially as they relate to China.

**Additional Background:** Media reports have indicated that the consideration of this legislation is intended to help offset the concerns that some Members have with the Central America Free Trade Agreement (CAFTA), the implementing legislation for which will also come to the House floor this week.

**Committee Action:** On July 14, 2005, H.R. 3283 was referred to the Ways & Means Committee, which took no formal action on it.

**Possible Conservative Concerns:** Some conservatives might be concerned at the increased tariffs this bill would allow.

**Administration Position:** A Statement of Administration Policy (SAP) was not released for this bill.

**Cost to Taxpayers:** CBO reports that this bill would increase mandatory spending by \$0 in FY2005, by \$0 in the FY2005-FY2009 period, and by \$36 million in the FY2006-FY2015 period. CBO also reports that the bill would increase revenues by \$0 in FY2005, \$6 million in the FY2005-FY2009 period, and by \$42 million in the FY2006-FY2015 period. The bill explicitly authorizes appropriations of \$111.53 million in FY2006 and \$116.91 million in FY2007.

**Does the Bill Expand the Size and Scope of the Federal Government?:** It would expand the application of the countervailing duty law, now applicable to only market economies, to nonmarket economies.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Constitutional Authority:** Although a committee report citing constitutional authority is unavailable, Article I, Section 8, Clause 1 of the Constitution grants Congress the power to “lay and collect Taxes, Duties, Imposts and Excises....”

**Outside Organizations:** Although some conservative organizations have informally expressed concerns with the legislation, none is taking a public, official position on it.

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