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113TH CONGRESS
2D SESSION

H. R. 4322

To amend the Tariff Act of 1930 to provide for the payment to affected producers and their employees of duties that are collected pursuant to countervailing and antidumping duty orders, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 27, 2014

Mr. MCKINLEY (for himself and Mr. RUSH) introduced the following bill; which was referred to the Committee on Ways and Means

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A BILL

To amend the Tariff Act of 1930 to provide for the payment to affected producers and their employees of duties that are collected pursuant to countervailing and antidumping duty orders, and for other purposes.

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 ''American Manufacturing and Worker Protection Act of 2014''.

SEC. 2. DISTRIBUTION OF COUNTERVAILING AND ANTIDUMPING DUTIES.

(a) IN GENERAL.—Title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) is amended by inserting after section 753 the following:

"SEC. 754. DISTRIBUTION OF CERTAIN DUTIES TO AFFECTED DOMESTIC PRODUCERS AND EMPLOYEES.

"(a) DEFINITIONS.—In this section:

"(1) AFFECTED DOMESTIC PRODUCER.—

"(A) IN GENERAL.—Subject to subparagraph (B), the term 'affected domestic producer' means any manufacturer or producer that—

"(i) was a petitioner or interested party in support of the petition with respect to which an antidumping duty order, a finding under the Antidumping Act of 1921, or a countervailing duty order has been entered; and

"(ii) remains in operation.

"(B) EXCEPTION.—Any company, business, or person that has ceased the production of the product covered by the order or finding described in subparagraph (A) or who has been acquired by a company or business that is re-

lated to a company that opposed the investigation pursuant to which the order or finding under subparagraph (A) was issued shall not be an affected domestic producer.

"(2) COMMISSIONER.—The term 'Commissioner' means the Commissioner responsible for U.S. Customs and Border Protection.

"(3) COMMISSION.—The term 'Commission' means the United States International Trade Commission.

"(4) ELIGIBLE EMPLOYEE.—

"(A) IN GENERAL.—An individual is an 'eligible employee' of an affected domestic producer if the individual—

"(i) has been totally or partially separated from employment with that affected domestic producer because of dumping or a subsidy pursuant to which the antidumping order or finding, or the countervailing duty order, described in paragraph (1)(A)(i) was entered; or

"(ii) is an employee of the affected domestic producer at the time a distribution is made under subsection (b) and was such an employee continuously from a date

that preceded the date on which the antidumping order or finding, or the countervailing duty order, described in paragraph (1)(A)(i) was entered.

"(B) EXCLUSION.—An executive officer of an affected domestic producer is not an eligible employee of that producer.

"(C) EXECUTIVE OFFICER DEFINED.—The term 'executive officer' means, with respect to an affected domestic producer, the chairman of the board of directors, chief executive officer, chief financial officer, president, or vice chairman, any executive vice president, and any senior vice president in charge of a principal business unit, division, or function.

"(5) PARTIALLY SEPARATED.—The term 'partially separated' means, with respect to an employee who has not been totally separated, that the employee has had—

"(A) the employee's hours of work reduced to 80 percent or less of the employee's average weekly hours because of dumping or a subsidy pursuant to which an antidumping order or finding, or a countervailing duty order, de-

scribed in paragraph (1)(A)(i), was entered; and

"(B) the employee's wages reduced to 80 percent or less of the employee's average weekly wage because of dumping or a subsidy pursuant to which such antidumping order or finding, or countervailing duty order, was entered.

"(6) QUALIFYING EXPENDITURE.—The term 'qualifying expenditure' means an expenditure incurred by an affected domestic producer after the issuance of the antidumping duty finding or order, or countervailing duty order, described in paragraph (1)(A)(i) in any of the following categories:

"(A) Manufacturing facilities.

"(B) Equipment.

"(C) Research and development.

"(D) Personnel training.

"(E) Acquisition of technology.

"(F) Health care benefits to employees paid for by the employer.

"(G) Pension benefits to employees paid for by the employer.

"(H) Environmental equipment, training, or technology.

"(I) Acquisition of raw materials and other inputs.

"(J) Working capital or other funds needed to maintain production.

"(7) RELATED TO.—

"(A) IN GENERAL.—A company, business, or person shall be considered to be 'related to' another company, business, or person if—

"(i) the company, business, or person directly or indirectly controls or is controlled by the other company, business, or person;

"(ii) a third party directly or indirectly controls both companies, businesses, or persons; or

"(iii) both companies, businesses, or persons directly or indirectly control a third party and there is reason to believe that the relationship causes the first company, business, or persons to act differently than a nonrelated party.

"(B) CONTROL.—For purposes of subparagraph (A), a party shall be considered to directly or indirectly control another party if the party is legally or operationally in a position to

exercise restraint or direction over the other party.

"(8) TOTALLY SEPARATED.—The term 'totally separated' means the layoff or severance of an individual from employment with an affected domestic producer because of dumping or a subsidy pursuant to which an antidumping order or finding, or the countervailing duty order, described in paragraph (1)(A)(i) was entered.

"(b) IN GENERAL.—Duties assessed pursuant to a countervailing duty order, an antidumping duty order, or a finding under the Antidumping Act of 1921 shall be distributed on a semiannual basis under this section to the affected domestic producers for qualifying expenditures and cash to eligible employees. Such distribution shall be known as the 'antidumping and subsidy protection amount'. Of each such distribution, not more than 10 percent may be used for administrative expenses. Of the remainder, 40 percent shall be distributed to eligible employees of each affected domestic producer to which a distribution is made as provided in this section, and 50 percent shall be distributed for qualifying expenditures of such affected domestic producer.

"(c) DISTRIBUTION PROCEDURES.—The Commissioner shall prescribe procedures for distribution of the

antidumping and subsidy protection amount required by this section. Such procedures shall require each affected producer to whom a distribution is to be made under this section to distribute the portion required for eligible employees in equal amounts to all such employees. Each distribution under this section shall be made not later than 60 days after the last day of each 6-month period of a fiscal year from duties assessed during that 6-month period.

"(d) PARTIES ELIGIBLE FOR DISTRIBUTION OF ANTIDUMPING AND COUNTERVAILING DUTIES ASSESSED.—

"(1) LIST OF AFFECTED DOMESTIC PRODUCERS.—The Commission shall forward to the Commissioner, within 45 days after the effective date of the American Manufacturing and Worker Protection Act of 2014 in the case of orders or findings in effect on that date or, in any other case, within 45 days after the date on which an antidumping or countervailing duty order or finding is issued, a list of petitioners and persons with respect to each order and finding and a list of persons that indicate support of the petition by letter or through questionnaire response. In those cases in which a determination of injury was not required or the Com-

mission's records do not permit an identification of those in support of a petition, the Commission shall consult with the administering authority to determine the identity of the petitioner and those domestic parties who have entered appearances during administrative reviews conducted by the administering authority under section 751.

"(2) PUBLICATION OF LIST; CERTIFICATION.—The Commissioner shall publish in the Federal Register, at least 30 days before the distribution of an antidumping and subsidy protection amount is made, a notice of intention to distribute the antidumping and subsidy protection amount and the list of affected domestic producers potentially eligible for the distribution based on the list obtained from the Commission under paragraph (1). The Commissioner shall request a certification from each potentially eligible affected domestic producer—

"(A) that the producer desires to receive a distribution;

"(B) that the producer is eligible to receive the distribution as an affected domestic producer;

"(C) the qualifying expenditures incurred by the producer since the issuance of the order

or finding for which distribution under this section has not previously been made; and

"(D) the eligible employees to whom the distribution is to be made.

"(3) DISTRIBUTION OF FUNDS.—The Commissioner shall distribute all funds (including all interest earned on the funds) from assessed duties received in a fiscal year to affected domestic producers based on the certifications described in paragraph (2). The distributions shall be made on a pro rata basis based on new and remaining qualifying expenditures and the number of eligible employees to whom distributions are to be made.

"(e) SPECIAL ACCOUNTS.—

"(1) ESTABLISHMENTS.—Within 14 days after the effective date of the American Manufacturing and Worker Protection Act of 2014, with respect to antidumping duty orders and findings and countervailing duty orders in effect on that effective date, and within 14 days after the effective date of an antidumping duty order or finding or countervailing duty order issued after the effective date of that Act, the Commissioner shall establish in the Treasury of the United States a special account with respect to each such order or finding.

"(2) DEPOSITS INTO ACCOUNTS.—The Commissioner shall deposit into the special accounts all anti-dumping or countervailing duties (including interest earned on such duties) that are assessed on or after the effective date of the American Manufacturing and Worker Protection Act of 2014 under the anti-dumping duty order or finding or the countervailing duty order with respect to which the account was established.

"(3) TIME AND MANNER OF DISTRIBUTIONS.—Consistent with the requirements of subsections (c) and (d), the Commissioner shall by regulation prescribe the time and manner in which distribution of the funds in a special account shall be made.

"(4) TERMINATION.—

"(A) TERMINATION.—If—

"(i) the order or finding with respect to which a special account was established has terminated,

"(ii) all entries relating to the order or finding have been liquidated and duties assessed collected, and

"(iii) the Commissioner has provided notice and a final opportunity to obtain a distribution pursuant to subsection (c),

then the special account shall terminate upon the expiration of the 90-day period beginning on the date of the notice described in clause (iii)

"(B) UNCLAIMED AMOUNTS.—Amounts not claimed within the 90-day period described in subparagraph (A) shall be deposited into the general fund of the Treasury.

"(f) REPORTS TO CONGRESS.—The Commissioner shall submit to Congress, not later than December 31 of each year, a report on the implementation of this section for antidumping and countervailing duty assessments made during the preceding fiscal year, and any recommendations the Commissioner may have with respect to such implementation. The report shall also include any findings of the Commission with respect to any waste, fraud, or abuse in the program established by this section.".

(b) CONFORMING AMENDMENT.—The table of contents for title VII of the Tariff Act of 1930 is amended by inserting after the item relating to section 753 the following new item:

"Sec. 754. Distribution of certain duties to affected domestic producers and employees.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2014, and shall

apply with respect to all antidumping and countervailing duty assessments made on or after that date.

SEC. 3. APPLICATION TO CANADA AND MEXICO.

Pursuant to article 1902 of the North American Free Trade Agreement and section 408 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3438), the amendments made by this Act shall apply with respect to goods from Canada and Mexico.

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