

111TH CONGRESS
1ST SESSION

S. 1043

To require the United States Trade Representative to negotiate a remedy for the equitable border tax treatment on goods and services within the WTO by January 1, 2010, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 14, 2009

Mr. GRAHAM introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To require the United States Trade Representative to negotiate a remedy for the equitable border tax treatment on goods and services within the WTO by January 1, 2010, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Border Tax Fairness
5 Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) UNITED STATES TRADE NEGOTIATING
2 GOALS RELATING TO EQUITABLE BORDER TAX
3 TREATMENT.—The term “United States trade nego-
4 tiating goals relating to equitable border tax treat-
5 ment” means—

6 (A) with respect to trade in goods, to ob-
7 tain a revision of the World Trade Organization
8 rules with respect to the treatment of border
9 adjustments for internal taxes to redress the
10 disadvantage to countries relying primarily on
11 direct taxes rather than indirect taxes for rev-
12 enue, as provided in section 2102(b)(15) of the
13 Bipartisan Trade Promotion Authority Act of
14 2002 (19 U.S.C. 3802(b)(15)); and

15 (B) with respect to trade in services, to—

16 (i) eliminate the disadvantage in trade
17 in services that exists for countries relying
18 primarily on direct taxes that are not ad-
19 justed at the border rather than indirect
20 taxes that are adjusted at the border; and

21 (ii) ensure that rules regarding trade
22 in services do not result in disparate treat-
23 ment of border adjustments for internal
24 taxes based on the direct or indirect nature
25 of such taxes.

1 (2) WTO NEGOTIATIONS.—The term “WTO
2 negotiations” means any multilateral negotiations
3 that may result in revisions to WTO agreements
4 that meet the United States trade negotiating goals
5 relating to equitable border tax treatment.

6 (3) WTO.—The term “WTO” means the World
7 Trade Organization established pursuant to the
8 WTO Agreement.

9 (4) WTO AGREEMENT.—The term “WTO
10 Agreement” means the Agreement Establishing The
11 World Trade Organization entered into on April 15,
12 1994.

13 **SEC. 3. REQUIREMENT FOR NEGOTIATIONS.**

14 (a) IN GENERAL.—Not later than 30 days after the
15 date of the enactment of this Act, the United States Trade
16 Representative shall pursue WTO negotiations to meet the
17 United States trade negotiating goals relating to equitable
18 border tax treatment and shall submit a report on whether
19 the United States trade negotiating goals relating to equi-
20 table border tax treatment have been met in revising the
21 WTO rules. The report shall be submitted to the Com-
22 mittee on Finance of the Senate and the Committee on
23 Ways and Means of the House of Representatives not later
24 than the earlier of—

1 (1) 60 days after completing WTO negotiations;

2 or

3 (2) January 1, 2010.

4 (b) CONTENT OF REPORT; LEGISLATIVE REC-
5 OMMENDATIONS.—The report required by subsection (a)
6 shall describe the negotiations regarding meeting United
7 States trade negotiating goals relating to equitable border
8 tax treatment and how the goals have been accomplished.
9 If the goals with respect to trade in goods or trade in serv-
10 ices have not met, the report shall include recommenda-
11 tions for legislation to address the equitable border tax
12 treatment for goods or services, as the case may be. The
13 legislative recommendation shall also include—

14 (1) recommendations for imposing a tax on im-
15 ports from any country that employs indirect taxes;
16 and

17 (2) recommendations for compensatory pay-
18 ments to eligible United States exporters to neu-
19 tralize the discriminatory effect of border taxes paid
20 by such exporters.

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