

110TH CONGRESS
2D SESSION

S. 3394

To prevent the undermining of the judgments of courts of the United States
by foreign courts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 31, 2008

Mr. SUNUNU (for himself and Mr. GREGG) introduced the following bill; which
was read twice and referred to the Committee on Finance

A BILL

To prevent the undermining of the judgments of courts of
the United States by foreign courts, 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. UNENFORCEABILITY OF CERTAIN FOREIGN**
4 **JUDGMENTS.**

5 (a) DEFINITIONS.—In this Act:

6 (1) ANTIDUMPING ACT OF 1916.—The term
7 “Antidumping Act of 1916” means section 801 of
8 the Act entitled “An Act to increase the revenue,
9 and for other purposes”, approved September 8,
10 1916 (39 Stat. 798, chapter 463), and repealed by

1 section 2006 of the Miscellaneous Trade and Tech-
2 nical Corrections Act of 2004 (Public Law 108–429;
3 118 Stat. 2597).

4 (2) FOREIGN DEFENDANT.—The term “foreign
5 defendant” means a person against which a court of
6 the United States has entered a final judgment
7 under the Antidumping Act of 1916.

8 (3) UNITED STATES PLAINTIFF.—The term
9 “United States plaintiff” means a person that ob-
10 tains damages pursuant to a final judgment of a
11 court of the United States under the Antidumping
12 Act of 1916.

13 (b) UNENFORCEABILITY OF CERTAIN FOREIGN
14 JUDGMENTS.—A judgment of a foreign court or agency
15 under a foreign statute described in subsection (c) that
16 requires a United States plaintiff or an affiliate of a
17 United States plaintiff to pay damages to a foreign de-
18 fendant may not be enforced by any Federal or State
19 agency, department, or court.

20 (c) FOREIGN STATUTE DESCRIBED.—A foreign stat-
21 ute described in this subsection is a statute of a foreign
22 country that has the effect of nullifying all or part of a
23 final judgment of a court of the United States under the
24 Antidumping Act of 1916 by enabling a foreign defendant
25 that has paid damages pursuant to such judgment to re-

1 cover any portion of such damages from the United States
2 plaintiff or an affiliate of the United States plaintiff.

3 (d) CIVIL ACTION FOR DAMAGES.—

4 (1) IN GENERAL.—A United States plaintiff or
5 an affiliate of a United States plaintiff held liable,
6 or required to forfeit or pay damages, pursuant to
7 a foreign judgment described in subsection (b) may
8 file a civil action against the foreign defendant that
9 obtained damages pursuant to the foreign judgment.
10 The action may be filed in the district court of the
11 United States that issued the final judgment with
12 respect to the United States plaintiff under the
13 Antidumping Act of 1916.

14 (2) DAMAGES.—A United States plaintiff or an
15 affiliate of a United States plaintiff that files a civil
16 action under paragraph (1) shall be entitled to re-
17 cover—

18 (A) an amount equal to the damages ob-
19 tained by the foreign defendant from the
20 United States plaintiff or an affiliate of a
21 United States plaintiff pursuant to the foreign
22 judgment, including any interest; and

23 (B) any related costs, including reasonable
24 attorneys' fees.

- 1 (e) EFFECTIVE DATE.—This section shall apply to
2 with respect to foreign judgments described in subsection
3 (b) entered on or after December 3, 2004.

