

**AMENDMENT TO H.R. 2647, AS REPORTED
OFFERED BY MR. STUPAK OF MICHIGAN**

At the end of subtitle A of title XXVIII (page 554,
after 14), insert the following new section:

1 **SEC. 2809. USE OF IRON AND STEEL PRODUCED IN THE**
2 **UNITED STATES IN MILITARY CONSTRUC-**
3 **TION PROJECTS IN THE UNITED STATES.**

4 (a) **USE OF IRON AND STEEL PRODUCED IN THE**
5 **UNITED STATES.—**

6 (1) **IN GENERAL.—**Notwithstanding any other
7 provision of law, the Secretary of Defense and the
8 Secretary of each military department shall not obli-
9 gate or expend funds appropriated to the Secretary,
10 or provide financial assistance using funds appro-
11 priated to the Secretary, for a military construction
12 project inside the United States unless all of the
13 iron and steel used in such project is produced in
14 the United States.

15 (2) **PRODUCTION.—**For purposes of complying
16 with paragraph (1), all manufacturing processes
17 must take place in the United States. Manufacturing
18 begins with the initial melting and mixing, and con-
19 tinues through the coating stage. Any process which

1 modifies the chemical content, the physical size or
2 shape, or the final finish is considered part of the
3 manufacturing process. These processes include roll-
4 ing, extruding, machining, bending, grinding, drilling
5 and coating (including epoxy coating, galvanizing,
6 painting, or any other coating that protects or en-
7 hances the value of the material).

8 (b) EXCEPTIONS.—The provisions of subsection (a)
9 shall not apply in any case in which the Secretary con-
10 cerned finds—

11 (1) that their application would be inconsistent
12 with the public interest;

13 (2) that iron and steel are not produced in the
14 United States in sufficient and reasonably available
15 quantities and of a satisfactory quality; or

16 (3) that inclusion of iron and steel produced in
17 the United States will increase the cost of the overall
18 project contract by more than 25 percent.

19 (c) WRITTEN JUSTIFICATION FOR WAIVER.—

20 (1) NOTICE AND COMMENT.—If the Secretary
21 concerned determines that it is necessary to waive
22 the application of subsection (a) based on a finding
23 under subsection (b), the Secretary shall, before the
24 waiver becomes effective—

1 (A) publish in the Federal Register a de-
2 tailed written justification as to why the waiver
3 is needed; and

4 (B) provide the public with a reasonable
5 period of time for notice and comment.

6 (2) ANNUAL REPORT.—Not later than one year
7 after the date of enactment of this Act, and annually
8 thereafter, the Secretary of Defense shall submit to
9 Congress a report on—

10 (A) any waivers granted under subsection
11 (b) in the preceding year, including justifica-
12 tions for the waivers; and

13 (B) any obligation or expenditure of funds
14 in the preceding year that did not conform to
15 the requirements of this section due to limita-
16 tions imposed by a treaty, agreement, or other
17 provision of law.

18 (d) RELATIONSHIP TO STATE REQUIREMENTS.—The
19 Secretary concerned shall not impose any limitation or
20 condition on financial assistance provided using funds ap-
21 propriated to the Secretary that restricts any State from
22 imposing more stringent requirements than this section on
23 the use of iron and steel from foreign countries in projects
24 carried out with such assistance or restricts any recipient

1 of such assistance from complying with such State im-
2 posed requirements.

3 (e) INTENTIONAL VIOLATIONS.—If it has been deter-
4 mined by a court or Federal agency that any person inten-
5 tionally—

6 (1) affixed a label bearing a “Made in Amer-
7 ica” inscription, or any inscription with the same
8 meaning, to any product used in projects to which
9 this section applies, sold in or shipped to the United
10 States that was not made in the United States; or

11 (2) represented that any product used in
12 projects to which this section applies, sold in or
13 shipped to the United States that was not produced
14 in the United States, was produced in the United
15 States;

16 that person shall be ineligible, for a period of 6 years be-
17 ginning on the date of the determination, to receive any
18 contract or subcontract made with funds authorized to be
19 appropriated to the agency pursuant to the debarment,
20 suspension, and ineligibility procedures in subpart 9.4 of
21 chapter 1 of title 48, Code of Federal Regulations.

22 (f) LIMITATION ON APPLICABILITY OF WAIVERS TO
23 PRODUCTS PRODUCED IN CERTAIN FOREIGN COUN-
24 TRIES.—If the Secretary concerned, in consultation with

1 the United States Trade Representative, determines
2 that—

3 (1) a foreign country is a party to an agree-
4 ment with the United States and pursuant to that
5 agreement the Secretary has waived the require-
6 ments of this section; and

7 (2) the foreign country has violated the terms
8 of the agreement by discriminating against products
9 covered by this section that are produced in the
10 United States and are covered by the agreement,

11 the provisions of subsection (b) shall not apply with re-
12 spect to the Secretary in connection with products pro-
13 duced in that foreign country.

14 (g) APPLICATION OF REQUIREMENTS TO ENTIRE
15 PROJECT.—The requirement of subsection (a) and the ex-
16 ceptions specified in subsection (b) apply to the total of
17 obligations and expenditures for an entire project and not
18 only to obligations and expenditures for component parts
19 of such project.

