

105TH CONGRESS  
1ST SESSION

# S. 219

To amend the Trade Act of 1974 to establish procedures for identifying countries that deny market access for value-added agricultural products of the United States.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 28, 1997

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

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## A BILL

To amend the Trade Act of 1974 to establish procedures for identifying countries that deny market access for value-added agricultural products of the United States.

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 “Value-added Agricul-  
5 tural Products Market Access Act of 1997”.

6 **SEC. 2. FINDINGS; PURPOSES.**

7 (a) FINDINGS.—Congress makes the following find-  
8 ings:

1           (1) The export of value-added agricultural prod-  
2           ucts is of vital importance to the economy of the  
3           United States.

4           (2) In 1995, agriculture was the largest positive  
5           contributor to the United States merchandise trade  
6           balance with a trade surplus of \$25,800,000,000.

7           (3) The growth of United States value-added  
8           agricultural exports should continue to be an impor-  
9           tant factor in improving the United States merchan-  
10          dise trade balance.

11          (4) Increasing the volume of value-added agri-  
12          cultural exports will increase farm income in the  
13          United States, thereby protecting family farms and  
14          contributing to the economic well-being of rural com-  
15          munities in the United States.

16          (5) Although the United States efficiently pro-  
17          duces high-quality value-added agricultural products,  
18          United States producers cannot realize their full ex-  
19          port potential because many foreign countries deny  
20          fair and equitable market access to United States  
21          agricultural products.

22          (6) The Foreign Agricultural Service estimates  
23          that United States agricultural exports are reduced  
24          by \$4,700,000,000 annually due to unjustifiable im-  
25          position of sanitary and phytosanitary measures that

1 deny or limit market access to United States prod-  
2 ucts.

3 (7) The denial of fair and equitable market ac-  
4 cess for United States value-added agricultural prod-  
5 ucts impedes the ability of United States farmers to  
6 export their products, thereby harming the economic  
7 interests of the United States.

8 (b) PURPOSES.—The purposes of this Act are—

9 (1) to reduce or eliminate foreign unfair trade  
10 practices and to remove constraints on fair and open  
11 trade in value-added agricultural products;

12 (2) to ensure fair and equitable market access  
13 for exports of United States value-added agricultural  
14 products; and

15 (3) to promote free and fair trade in value-  
16 added agricultural products.

17 **SEC. 3. IDENTIFICATION OF COUNTRIES THAT DENY MAR-**  
18 **KET ACCESS.**

19 (a) IDENTIFICATION REQUIRED.—Chapter 8 of title  
20 I of the Trade Act of 1974 is amended by adding at the  
21 end the following:

1 **“SEC. 183. IDENTIFICATION OF COUNTRIES THAT DENY**  
 2 **MARKET ACCESS FOR VALUE-ADDED AGRI-**  
 3 **CULTURAL PRODUCTS.**

4 “(a) IN GENERAL.—Not later than the date that is  
 5 30 days after the date on which the annual report is re-  
 6 quired to be submitted to Congressional committees under  
 7 section 181(b), the United States Trade Representative  
 8 (hereafter in this section referred to as the ‘Trade Rep-  
 9 resentative’) shall identify—

10 “(1) those foreign countries that—

11 “(A) deny fair and equitable market access  
 12 to United States value-added agricultural prod-  
 13 ucts, or

14 “(B) apply standards for the importation  
 15 of value-added agricultural products from the  
 16 United States that are not related to public  
 17 health concerns or cannot be substantiated by  
 18 reliable analytical methods; and

19 “(2) those foreign countries identified under  
 20 paragraph (1) that are determined by the Trade  
 21 Representative to be priority foreign countries.

22 “(b) SPECIAL RULES FOR IDENTIFICATIONS.—

23 “(1) CRITERIA.—In identifying priority foreign  
 24 countries under subsection (a)(2), the Trade Rep-  
 25 resentative shall only identify those foreign coun-  
 26 tries—

1 “(A) that engage in or have the most oner-  
 2 ous or egregious acts, policies, or practices that  
 3 deny fair and equitable market access to United  
 4 States value-added agricultural products,

5 “(B) whose acts, policies, or practices de-  
 6 scribed in subparagraph (A) have the greatest  
 7 adverse impact (actual or potential) on the rel-  
 8 evant United States products, and

9 “(C) that are not—

10 “(i) entering into good faith negotia-  
 11 tions, or

12 “(ii) making significant progress in  
 13 bilateral or multilateral negotiations,  
 14 to provide fair and equitable market access to  
 15 United States value-added agricultural prod-  
 16 ucts.

17 “(2) CONSULTATION AND CONSIDERATION RE-  
 18 QUIREMENTS.—In identifying priority foreign coun-  
 19 tries under subsection (a)(2), the Trade Representa-  
 20 tive shall—

21 “(A) consult with the Secretary of Agri-  
 22 culture and other appropriate officers of the  
 23 Federal Government, and

24 “(B) take into account information from  
 25 such sources as may be available to the Trade

1 Representative and such information as may be  
2 submitted to the Trade Representative by inter-  
3 ested persons, including information contained  
4 in reports submitted under section 181(b) and  
5 petitions submitted under section 302.

6 “(3) FACTUAL BASIS REQUIREMENT.—The  
7 Trade Representative may identify a foreign country  
8 under subsection (a)(1) only if the Trade Represent-  
9 ative finds that there is a factual basis for the denial  
10 of fair and equitable market access as a result of the  
11 violation of international law or agreement, or the  
12 existence of barriers, referred to in subsection  
13 (d)(3).

14 “(4) CONSIDERATION OF HISTORICAL FAC-  
15 TORS.—In identifying foreign countries under para-  
16 graphs (1) and (2) of subsection (a), the Trade Rep-  
17 resentative shall take into account—

18 “(A) the history of value-added agricul-  
19 tural trade relations with the foreign country,  
20 including any previous identification under sub-  
21 section (a)(2), and

22 “(B) the history of efforts of the United  
23 States, and the response of the foreign country,  
24 to achieve fair and equitable market access for

1 United States value-added agricultural prod-  
 2 ucts.

3 “(c) REVOCATIONS AND ADDITIONAL IDENTIFICA-  
 4 TIONS.—

5 “(1) AUTHORITY TO ACT AT ANY TIME.—If in-  
 6 formation available to the Trade Representative indi-  
 7 cates that such action is appropriate, the Trade  
 8 Representative may at any time—

9 “(A) revoke the identification of any for-  
 10 eign country as a priority foreign country under  
 11 this section, or

12 “(B) identify any foreign country as a pri-  
 13 ority foreign country under this section.

14 “(2) REVOCATION REPORTS.—The Trade Rep-  
 15 resentative shall include in the semiannual report  
 16 submitted to the Congress under section 309(3) a  
 17 detailed explanation of the reasons for the revocation  
 18 under paragraph (1) of the identification of any for-  
 19 eign country as a priority foreign country under this  
 20 section.

21 “(d) DEFINITIONS.—For purposes of this section—

22 “(1) VALUE-ADDED AGRICULTURAL PROD-  
 23 UCT.—The term ‘value-added agricultural product’  
 24 means a product that has traditionally been consid-  
 25 ered by the Secretary of Agriculture as being a

1 value-added product within the scope of section 303  
2 of the Agricultural Trade Act of 1978 (7 U.S.C.  
3 5653).

4 “(2) FAIR AND EQUITABLE MARKET ACCESS.—  
5 A foreign country denies fair and equitable market  
6 access if the foreign country effectively denies access  
7 to a market for a product through the use of laws,  
8 procedures, practices, or regulations which—

9 “(A) violate provisions of international law  
10 or international agreements to which both the  
11 United States and the foreign country are par-  
12 ties, or

13 “(B) constitute discriminatory nontariff  
14 trade barriers.

15 “(e) PUBLICATION.—The Trade Representative shall  
16 publish in the Federal Register a list of foreign countries  
17 identified under subsection (a) and shall make such revi-  
18 sions to the list as may be required by reason of the action  
19 under subsection (c).

20 “(f) ANNUAL REPORT.—The Trade Representative  
21 shall, not later than the date by which countries are identi-  
22 fied under subsection (a), transmit to the Committee on  
23 Ways and Means and the Committee on Agriculture of the  
24 House of Representatives and the Committee on Finance



1 and the Committee on Agriculture, Nutrition, and For-  
 2 estry of the Senate, a report on the actions taken under  
 3 this section during the 12 months preceding such report,  
 4 and the reasons for such actions, including a description  
 5 of progress made in achieving fair and equitable market  
 6 access for United States value-added agricultural prod-  
 7 ucts.”.

8 (b) CLERICAL AMENDMENT.—The table of contents  
 9 for the Trade Act of 1974 is amended by inserting after  
 10 the item relating to section 182 the following:

“Sec. 183. Identification of countries that deny market access for value-added  
 agricultural products.”.

11 **SEC. 4. INVESTIGATIONS.**

12 (a) INVESTIGATION REQUIRED.—Subparagraph (A)  
 13 of section 302(b)(2) of the Trade Act of 1974 (19 U.S.C.  
 14 2412(b)(2)) is amended by inserting “or 183(a)(2)” after  
 15 “section 182(a)(2)” in the matter preceding clause (i).

16 (b) CONFORMING AMENDMENT.—Subparagraph (D)  
 17 of section 302(b)(2) of such Act is amended by inserting  
 18 “concerning intellectual property rights that is” after  
 19 “any investigation”.

20 **SEC. 5. AUTHORIZED ACTIONS BY UNITED STATES TRADE**  
 21 **REPRESENTATIVE.**

22 Section 301(c)(1) of the Trade Act of 1974 (19  
 23 U.S.C. 2411(c)(1)) is amended—

1 (1) by striking “or” at the end of subparagraph  
2 (C);

3 (2) by striking the period at the end of sub-  
4 paragraph (D)(iii)(II) and inserting “; or”; and

5 (3) by adding at the end the following:

6 “(E) with respect to an investigation of a  
7 country identified under section 183(a)(1), to  
8 request that the Secretary of Agriculture (who,  
9 upon receipt of such a request, shall) direct the  
10 Food Safety and Inspection Service of the De-  
11 partment of Agriculture to review certifications  
12 for the facilities of such country that export  
13 meat and other agricultural products to the  
14 United States.”.

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