

111TH CONGRESS
1ST SESSION

S. 1766

To enhance reciprocal market access for United States domestic producers in the negotiating process of bilateral, regional, and multilateral trade agreements.

IN THE SENATE OF THE UNITED STATES

OCTOBER 8, 2009

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

A BILL

To enhance reciprocal market access for United States domestic producers in the negotiating process of bilateral, regional, and multilateral trade agreements.

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 “Reciprocal Market Ac-
5 cess Act of 2009”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) One of the fundamental tenets of the World
9 Trade Organization (WTO) is reciprocal market ac-

1 cess. This principle is underscored in the Marrakesh
2 Agreement Establishing the World Trade Organiza-
3 tion which called for “entering into reciprocal and
4 mutually advantageous arrangements directed to the
5 substantial reduction of tariffs and other barriers to
6 trade and to the elimination of discriminatory treat-
7 ment in international trade relations”.

8 (2) With each subsequent round of bilateral, re-
9 gional, and multilateral trade negotiations, tariffs
10 have been significantly reduced or eliminated for
11 many manufactured goods, leaving nontariff barriers
12 as the most pervasive, significant, and challenging
13 barriers to United States exports and market oppor-
14 tunities.

15 (3) The United States market is widely recog-
16 nized as one of the most open markets in the world.
17 Average United States tariff rates are very low and
18 the United States has limited, if any, nontariff bar-
19 riers.

20 (4) Often the only leverage the United States
21 has to obtain the reduction or elimination of non-
22 tariff barriers imposed by foreign countries is to ne-
23 gotiate the amount of tariffs the United States im-
24 poses on imports from those foreign countries.

1 (5) Under the current negotiating process, ne-
2 gotiations to reduce or eliminate tariff barriers and
3 nontariff barriers are separate and self-contained,
4 meaning that tradeoffs are tariff-for-tariff and non-
5 tariff-for-nontariff. As a result, a tariff can be re-
6 duced or eliminated without securing elimination of
7 the real barrier or barriers that deny United States
8 businesses access to a foreign market.

9 (b) PURPOSE.—The purpose of this Act is to require
10 that United States trade negotiations achieve measurable
11 results for United States businesses by ensuring that
12 trade agreements result in expanded market access for
13 United States exports and not solely the elimination of
14 tariffs on goods imported into the United States.

15 **SEC. 3. LIMITATION ON AUTHORITY TO REDUCE OR ELIMI-**
16 **NATE RATES OF DUTY PURSUANT TO CER-**
17 **TAIN TRADE AGREEMENTS.**

18 (a) LIMITATION.—Notwithstanding any other provi-
19 sion of the law, on or after the date of the enactment of
20 this Act, the President may not agree to a modification
21 of an existing duty that would reduce or eliminate the
22 bound or applied rate of such duty on any product in order
23 to carry out a trade agreement entered into between the
24 United States and a foreign country until the President

1 transmits to Congress a certification described in sub-
2 section (b).

3 (b) CERTIFICATION.—A certification referred to in
4 subsection (a) is a certification by the President that—

5 (1) the United States has obtained the reduc-
6 tion or elimination of tariff and nontariff barriers
7 and policies and practices of the government of a
8 foreign country described in subsection (a) with re-
9 spect to United States exports of any product identi-
10 fied by United States domestic producers as having
11 the same physical characteristics and uses as the
12 product for which a modification of an existing duty
13 is sought by the President as described in subsection
14 (a); and

15 (2) a violation of any provision of the trade
16 agreement described in subsection (a) relating to the
17 matters described in paragraph (1) is immediately
18 enforceable in accordance with the provisions of sec-
19 tion 4.

20 **SEC. 4. ENFORCEMENT PROVISIONS.**

21 (a) WITHDRAWAL OF TARIFF CONCESSIONS.—If the
22 President does agree to a modification described in section
23 3(a), and the United States Trade Representative deter-
24 mines pursuant to subsection (c) that—

1 (1) a tariff or nontariff barrier or policy or
2 practice of the government of a foreign country de-
3 scribed in section 3(a) has not been reduced or
4 eliminated, or

5 (2) a tariff or nontariff barrier or policy or
6 practice of such government has been imposed or
7 discovered,

8 the modification shall be withdrawn until such time as the
9 United States Trade Representative submits to Congress
10 a certification described in section 3(b)(1).

11 (b) INVESTIGATION.—

12 (1) IN GENERAL.—The United States Trade
13 Representative shall initiate an investigation if an
14 interested party files a petition with the United
15 States Trade Representative which alleges the ele-
16 ments necessary for the withdrawal of the modifica-
17 tion of an existing duty under subsection (a), and
18 which is accompanied by information reasonably
19 available to the petitioner supporting such allega-
20 tions.

21 (2) INTERESTED PARTY DEFINED.—For pur-
22 poses of paragraph (1), the term “interested party”
23 means—

24 (A) a manufacturer, producer, or whole-
25 saler in the United States of a domestic product

1 that has the same physical characteristics and
2 uses as the product for which a modification of
3 an existing duty is sought;

4 (B) a certified union or recognized union
5 or group of workers engaged in the manufac-
6 ture, production, or wholesale in the United
7 States of a domestic product that has the same
8 physical characteristics and uses as the product
9 for which a modification of an existing duty is
10 sought;

11 (C) a trade or business association a ma-
12 jority of whose members manufacture, produce,
13 or wholesale in the United States a domestic
14 product that has the same physical characteris-
15 tics and uses as the product for which a modi-
16 fication of an existing duty is sought; and

17 (D) a member of the Committee on Ways
18 and Means of the House of Representatives or
19 a member of the Committee on Finance of the
20 Senate.

21 (c) DETERMINATION BY USTR.—Not later than 45
22 days after the date on which a petition is filed under sub-
23 section (b), the United States Trade Representative
24 shall—

1 (1) determine whether the petition alleges the
2 elements necessary for the withdrawal of the modi-
3 fication of an existing duty under subsection (a);
4 and

5 (2) notify the petitioner of the determination
6 under paragraph (1) and the reasons for the deter-
7 mination.

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