

112TH CONGRESS
2D SESSION

H. R. 4621

To authorize negotiations with Brazil to eliminate tariffs and trade barriers to United States ethanol exports.

IN THE HOUSE OF REPRESENTATIVES

APRIL 25, 2012

Mr. RANGEL introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To authorize negotiations with Brazil to eliminate tariffs and trade barriers to United States ethanol exports.

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 “United States-Brazil
5 Ethanol Open Market Agreements Act”.

6 **SEC. 2. FINDINGS AND STATEMENT OF POLICY.**

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

8 (1) Brazil is the second largest consumer of
9 ethanol after the United States. For the United

1 States ethanol industry, Brazil represents a valuable
2 and growing market for United States exports of
3 ethanol. More than one-third of United States eth-
4 anol exports were destined for Brazil in 2011.

5 (2) Over the last 5 years, exports of United
6 States ethanol have risen dramatically, from ap-
7 proximately 100,000,000 gallons annually, to nearly
8 500,000,000 gallons exported in 2010, and climbing
9 to more than 1,000,000,000 gallons in 2011 at an
10 estimated \$2,500,000,000.

11 (3) Intervention in the ethanol sector by the
12 Government of Brazil has distorted the market for
13 imported ethanol in Brazil. To date, Brazil has ma-
14 nipulated the ethanol blending requirement with the
15 effect of reducing demand for imported ethanol;
16 used price controls on gasoline thus reducing de-
17 mand for ethanol imports; used tax policies to favor
18 consumption of Brazilian produced ethanol over im-
19 ported ethanol; and subsidized the Brazilian ethanol
20 industry through infrastructure and other policies
21 that encourage Brazilian production and exports.
22 The Brazilian government's actions have had a di-
23 rect and detrimental impact on United States ex-
24 ports of ethanol to Brazil.

1 (4) Brazil recently issued a temporary waiver of
2 its 20 percent import tariff on ethanol but retains
3 the ability to revoke the waiver and impose tariffs on
4 United States ethanol.

5 (5) At the end of 2011, the United States Gov-
6 ernment allowed additional duties on ethanol under
7 subchapter I of chapter 99 of the Harmonized Tariff
8 Schedule of the United States to expire.

9 (6) The Western Hemisphere has developed a
10 diversified yet integrated supply chain for ethanol
11 production binding Brazil, the Caribbean, and the
12 United States. Preservation of this mutually bene-
13 ficial relationship in ethanol production should be a
14 key priority in trade negotiations with Brazil.

15 (b) STATEMENT OF POLICY.—Congress calls on the
16 President, acting through the Office of the United States
17 Trade Representative, to enter into negotiations with
18 Brazil for the purpose of reaching a binding and enforce-
19 able agreement removing tariff and nontariff barriers to
20 United States ethanol exports to Brazil, consistent with
21 the objectives of the Caribbean Basin Initiative.

1 **SEC. 3. AUTHORITY TO ENTER INTO ETHANOL TRADE NE-**
2 **GOTIATIONS WITH BRAZIL.**

3 (a) **PRINCIPAL TRADE NEGOTIATING OBJECTIVES.—**

4 The principal trade negotiating objectives of the United
5 States for the agreement described in subsection (b) are—

6 (1) to obtain open and reciprocal market access
7 for trade in ethanol products between the United
8 States and Brazil;

9 (2) to obtain the elimination of barriers and
10 distortions imposed by the national Government of
11 Brazil or its state governments that are directly re-
12 lated to trade in ethanol and that decrease market
13 opportunities for United States ethanol exports to
14 Brazil;

15 (3) to ensure a stable market for United States
16 ethanol exports to Brazil, by obtaining a binding, en-
17 forceable agreement with appropriate dispute settle-
18 ment procedures; and

19 (4) to promote energy independence and re-
20 gional stability by preserving existing Caribbean
21 preference programs that strengthen the integrated
22 hemispheric ethanol supply chain among Brazil, the
23 Caribbean nations, and the United States.

24 (b) **AUTHORITY TO ENTER INTO NEGOTIATIONS**
25 **WITH BRAZIL.—**

1 (1) IN GENERAL.—The President is authorized
2 to enter into negotiations with Brazil for the pur-
3 pose of concluding a trade agreement that achieves
4 the trade negotiating objectives of subsection (a).

5 (2) CONGRESSIONAL NOTIFICATION.—The
6 President shall notify the Committees on Ways and
7 Means and Agriculture of the House of Representa-
8 tives and the Committees on Finance and Agri-
9 culture of the Senate in writing not later than 30
10 days after commencing negotiations under para-
11 graph (1).

12 **SEC. 4. EXTENSION OF ADDITIONAL DUTY ON ETHANOL.**

13 (a) IN GENERAL.—Heading 9901.00.50 of the Har-
14 monized Tariff Schedule of the United States is amended
15 by striking “1/1/2012” in the effective period column and
16 inserting “1/1/2015”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 subsection (a) applies to goods entered, or withdrawn from
19 warehouse for consumption, on or after the 15th day after
20 the date of the enactment of this Act.

21 **SEC. 5. PRESIDENTIAL PROCLAMATION AUTHORITY AND**
22 **CERTIFICATION OF AN ETHANOL OPEN MAR-**
23 **KET AGREEMENT.**

24 (a) IN GENERAL.—Beginning on the date on which
25 submits to Congress a certification described in subsection

1 (b), and subject to the consultation and layover provisions
2 of section 6, the President is authorized to proclaim the
3 suspension of the extension of the additional duty on eth-
4 anol under heading 9901.00.50 of the Harmonized Tariff
5 Schedule of the United States, as amended by section 4
6 of this Act.

7 (b) CERTIFICATION DESCRIBED.—The certification
8 referred to in subsection (a) is a certification by the Presi-
9 dent that the United States has obtained an enforceable
10 agreement with the Government of Brazil that eliminates
11 all tariffs and nontariff barriers on imported United
12 States-produced ethanol, including binding Brazil's tariff
13 rate on imports of United States ethanol at an effective
14 rate of zero.

15 **SEC. 6. CONSULTATION AND LAYOVER PROVISIONS FOR,**
16 **AND EFFECTIVE DATE OF, PROCLAIMED AC-**
17 **TIONS.**

18 The consultation and layover requirements of this
19 section are that the President may proclaim an action de-
20 scribed in section 5 only if—

21 (1) the President has obtained advice regarding
22 the proposed action from—

23 (A) the appropriate advisory committees
24 established under section 135 of the Trade Act
25 of 1974 (19 U.S.C. 2155); and

1 (B) the International Trade Commission;

2 (2) the President has submitted to the Com-
 3 mittee on Finance of the Senate and the Committee
 4 on Ways and Means of the House of Representatives
 5 a report that sets forth—

6 (A) the action proposed to be proclaimed
 7 and the reasons for the action, including a de-
 8 scription of how the trade negotiating objectives
 9 in section 3 have been met; and

10 (B) the advice obtained under paragraph
 11 (1);

12 (3) a period of 60 calendar days, beginning on
 13 the first day on which the requirements set forth in
 14 paragraphs (1) and (2) have been met, has expired;
 15 and

16 (4) the President has consulted with the com-
 17 mittees referred to in paragraph (2) regarding the
 18 proposed action during the period referred to in
 19 paragraph (3).

20 **SEC. 7. REVIEW OF STATUS OF NEGOTIATIONS WITH**
 21 **BRAZIL ON ESTABLISHMENT OF DUTY-FREE**
 22 **TRADE IN ETHANOL.**

23 Not later than 180 days after the date of the enact-
 24 ment of this Act, and every 12 months thereafter, the
 25 President shall submit to the Committees on Ways and

1 Means and Agriculture of the House of Representatives
2 and the Committees on Finance and Agriculture of the
3 Senate a report on the status of trade negotiations de-
4 scribed in section 3.

5 **SEC. 8. CONGRESSIONAL DISAPPROVAL OF PRESIDENTIAL**
6 **CERTIFICATION.**

7 (a) GENERAL RULE.—

8 (1) IN GENERAL.—The proclamation authority
9 under section 5 shall cease to be effective if a joint
10 resolution described in subsection (b) is enacted into
11 law pursuant to the provisions of paragraph (2).

12 (2) PROCEDURAL PROVISIONS.—

13 (A) IN GENERAL.—The requirements of
14 this paragraph are met if the joint resolution
15 described in subsection (b) is enacted in accord-
16 ance with the procedures described in sub-
17 section (b), and—

18 (i) Congress adopts and transmits the
19 joint resolution to the President before the
20 end of the 90-day period (excluding any
21 day described in section 154(b) of the
22 Trade Act of 1974), beginning on the date
23 on which the Congress receives the certifi-
24 cation referred to section 5; and

1 (ii) if the President vetoes the joint
2 resolution, each House of Congress votes
3 to override that veto on or before the later
4 of the last day of the 90-day period re-
5 ferred to in clause (i) or the last day of the
6 15-day period (excluding any day described
7 in section 154(b) of the Trade Act of
8 1974) beginning on the date on which the
9 Congress receives the veto message from
10 the President.

11 (B) INTRODUCTION.—A joint resolution to
12 which this section applies may be introduced at
13 any time on or after the date on which the
14 President transmits to Congress a certification
15 described in section 4, and before the end of the
16 90-day period referred to in subparagraph (A).

17 (b) JOINT RESOLUTIONS.—

18 (1) JOINT RESOLUTIONS.—For purposes of this
19 section, the term “joint resolution” means only a
20 joint resolution of the two Houses of Congress, the
21 matter after the resolving clause of which is as fol-
22 lows: “That the suspension of the extension of the
23 additional duty on ethanol under heading
24 9901.00.50 of the Harmonized Tariff Schedule of
25 the United States, as proclaimed by the President

1 under section 5 of the United States-Brazil Ethanol
2 Open Market Agreements Act, is hereby rescinded.”.

3 (2) PROCEDURES.—

4 (A) IN GENERAL.—A joint resolution
5 under this subsection may be introduced in ei-
6 ther House of the Congress by any member of
7 such House.

8 (B) COMMITTEE AND FLOOR PROCE-
9 DURES.—Subject to the provisions of this sub-
10 section, the provisions of subsections (b), (d),
11 (e), and (f) of section 152 of the Trade Act of
12 1974 (19 U.S.C. 2192(b), (d), (e), and (f))
13 apply to a joint resolution under this subsection
14 to the same extent as such provisions apply to
15 a joint resolution under section 152 of such
16 Act.

17 (C) COMMITTEE DISCHARGE.—If the com-
18 mittee of either House to which a joint resolu-
19 tion under this subsection has been referred has
20 not reported it by the close of the 45th day
21 after its introduction (excluding any day de-
22 scribed in section 154(b) of the Trade Act of
23 1974), such committee shall be automatically
24 discharged from further consideration of the

1 joint resolution and it shall be placed on the ap-
2 propriate calendar.

3 (D) COMMITTEES.—It is not in order
4 for—

5 (i) the Senate to consider any joint
6 resolution unless it has been reported by
7 the Committee on Finance or the com-
8 mittee has been discharged under subpara-
9 graph (C); or

10 (ii) the House of Representatives to
11 consider any joint resolution unless it has
12 been reported by the Committee on Ways
13 and Means or the committee has been dis-
14 charged under subparagraph (C).

15 (E) CONSIDERATION IN HOUSE OF REP-
16 RESENTATIVES.—A motion in the House of
17 Representatives to proceed to the consideration
18 of a joint resolution may only be made on the
19 second legislative day after the calendar day on
20 which the Member making the motion an-
21 nounces to the House his or her intention to do
22 so.

23 (3) CONSIDERATION OF SECOND RESOLUTION
24 NOT IN ORDER.—It shall not be in order in either
25 the House of Representatives or the Senate to con-

1 sider a joint resolution under this subsection (other
 2 than a joint resolution received from the other
 3 House), if that House has previously adopted a joint
 4 resolution under this subsection.

5 (c) RULES OF HOUSE OF REPRESENTATIVES AND
 6 SENATE.—This section is enacted by Congress—

7 (1) as an exercise of the rulemaking power of
 8 the House of Representatives and the Senate, re-
 9 spectively, and as such is deemed a part of the rules
 10 of each House, respectively, and such procedures su-
 11 persede other rules only to the extent that they are
 12 inconsistent with such other rules; and

13 (2) with the full recognition of the constitu-
 14 tional right of either House to change the rules (so
 15 far as relating to the procedures of that House) at
 16 any time, in the same manner, and to the same ex-
 17 tent as any other rule of that House.

18 **SEC. 9. RULE OF CONSTRUCTION.**

19 Nothing in this Act or any amendment made by this
 20 Act shall be construed to modify any benefit conferred
 21 under the Caribbean Basin Economic Recovery Act (19
 22 U.S.C. 2701 et seq.).

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