

115TH CONGRESS
2D SESSION

H. R. 5909

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

IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2018

Ms. DELAURO introduced the following bill; which was referred to the
Committee on Ways and Means

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 2018”.

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) The American people have a right to expect
9 that the promises that trade negotiators and policy
10 makers offer in terms of the market access opportu-
11 nities that will be available to United States busi-
12 nesses and their employees if trade agreements are
13 reached, will, in fact, be realized. A results-oriented
14 approach must form the basis of future trade nego-
15 tiations that includes verification procedures to en-
16 sure that the promised market access is achieved
17 and that reciprocal trade benefits result.

18 (3) With each subsequent round of bilateral, re-
19 gional, and multilateral trade negotiations, tariffs
20 have been significantly reduced or eliminated for
21 many manufactured goods, leaving nontariff barriers
22 as the most pervasive, significant, and challenging
23 barriers to United States exports and market oppor-
24 tunities.

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

6 (5) Often the only leverage the United States
7 has to obtain the reduction or elimination of non-
8 tariff barriers imposed by foreign countries is to ne-
9 gotiate the amount of tariffs the United States im-
10 poses on imports from those foreign countries.

11 (6) Under the current negotiating process, ne-
12 gotiations to reduce or eliminate tariff barriers and
13 nontariff barriers are separate and self-contained,
14 meaning that tradeoffs are tariff-for-tariff and non-
15 tariff-for-nontariff. As a result, a tariff can be re-
16 duced or eliminated without securing elimination of
17 the real barrier or barriers that deny United States
18 businesses access to a foreign market.

19 (b) PURPOSE.—The purpose of this Act is to require
20 that United States trade negotiations achieve measurable
21 results for United States businesses by ensuring that
22 trade agreements result in expanded market access for
23 United States exports and not solely the elimination of
24 tariffs on goods imported into the United States.

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

4 (a) LIMITATION.—Notwithstanding any other provi-
5 sion of law, on or after the date of the enactment of this
6 Act, the President may not agree to a modification of an
7 existing duty that would reduce or eliminate the bound
8 or applied rate of such duty on any product in order to
9 carry out a trade agreement entered into between the
10 United States and a foreign country until the President
11 transmits to Congress a certification described in sub-
12 section (b).

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

15 (1) the United States has obtained the reduc-
16 tion or elimination of tariff and nontariff barriers
17 and policies and practices of the government of a
18 foreign country described in subsection (a) with re-
19 spect to United States exports of any product identi-
20 fied by United States domestic producers as having
21 the same physical characteristics and uses as the
22 product for which a modification of an existing duty
23 is sought by the President as described in subsection
24 (a); and

25 (2) a violation of any provision of the trade
26 agreement described in subsection (a) relating to the

1 matters described in paragraph (1) is immediately
2 enforceable in accordance with the provisions of sec-
3 tion 4.

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

5 (a) WITHDRAWAL OF TARIFF CONCESSIONS.—If the
6 President does agree to a modification described in section
7 3(a), and the United States Trade Representative deter-
8 mines pursuant to subsection (c) that—

9 (1) a tariff or nontariff barrier or policy or
10 practice of the government of a foreign country de-
11 scribed in section 3(a) has not been reduced or
12 eliminated; or

13 (2) a tariff or nontariff barrier or policy or
14 practice of such government has been imposed or
15 discovered,

16 the United States Trade Representative shall withdraw
17 the modification until such time as the President trans-
18 mits to Congress a certification described in section
19 3(b)(1).

20 (b) INVESTIGATION.—

21 (1) IN GENERAL.—The United States Trade
22 Representative, in coordination with the Department
23 of Labor, shall initiate an investigation if an inter-
24 ested party files a petition with the United States
25 Trade Representative which alleges the elements

1 necessary for the withdrawal of the modification of
2 an existing duty under subsection (a), and which is
3 accompanied by information reasonably available to
4 the petitioner supporting such allegations.

5 (2) INTERESTED PARTY DEFINED.—For pur-
6 poses of paragraph (1), the term “interested party”
7 means—

8 (A) a manufacturer, producer, or whole-
9 saler in the United States of a domestic product
10 that has the same physical characteristics and
11 uses as the product for which a modification of
12 an existing duty is sought;

13 (B) a certified union or recognized union
14 or group of workers engaged in the manufac-
15 ture, production, or wholesale in the United
16 States of a domestic product that has the same
17 physical characteristics and uses as the product
18 for which a modification of an existing duty is
19 sought;

20 (C) a trade or business association a ma-
21 jority of whose members manufacture, produce,
22 or wholesale in the United States a domestic
23 product that has the same physical characteris-
24 tics and uses as the product for which a modi-
25 fication of an existing duty is sought; or

1 (D) a member of the Committee on Ways
2 and Means of the House of Representatives or
3 a member of the Committee on Finance of the
4 Senate.

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

9 (1) determine whether the petition alleges the
10 elements necessary for the withdrawal of the modi-
11 fication of an existing duty under subsection (a);
12 and

13 (2) notify the petitioner of the determination
14 under paragraph (1) and the reasons for the deter-
15 mination.

16 **SEC. 5. MARKET ACCESS ASSESSMENT BY UNITED STATES**
17 **INTERNATIONAL TRADE COMMISSION.**

18 (a) IN GENERAL.—With respect to any proposed
19 trade agreement in which the President seeks a modifica-
20 tion of an existing duty that would reduce or eliminate
21 the bound or applied rate of such duty on any product
22 in order to carry out a trade agreement entered into be-
23 tween the United States and a foreign country, the United
24 States International Trade Commission shall initiate an
25 investigation and report as to the possible market access

1 opportunities of the modification or elimination of foreign
2 tariff and nontariff measures for United States industries
3 producing and exporting similar products. In preparing its
4 report, the International Trade Commission shall identify
5 the tariff and nontariff measures for such products and
6 the expected opportunities for United States exports.

7 (b) CONSULTATION.—In preparing its report under
8 subsection (a), the United States International Trade
9 Commission shall, as appropriate, seek to obtain relevant
10 information from domestic producers of similar products,
11 industry associations, government representatives, and
12 other interested organizations.

13 (c) REPORT.—

14 (1) IN GENERAL.—Not later than 240 days
15 after the President notifies Congress of his intent to
16 enter into negotiations for a proposed trade agree-
17 ment described in subsection (a), or not later than
18 45 days after the President notifies Congress of his
19 intent to enter into a trade agreement, whichever oc-
20 curs first, the United States International Trade
21 Commission shall submit to the United States Trade
22 Representative, the Secretary of Commerce, and
23 Congress the report required under subsection (a).

1 (2) FORM.—Such report shall be submitted in
2 unclassified form, but may contain a classified
3 annex, if necessary.

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