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H. R. 817

To promote trade in United States agricultural commodities, livestock, and value-added products, and to prepare for future bilateral and multilateral trade negotiations.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 1999

Mr. EWING (for himself, Mr. MORAN of Kansas, Mr. BOEHNER, Mr. BARRETT of Nebraska, Mr. SMITH of Michigan, Mr. MINGE, Mr. LAHOOD, Mr. WELLER, and Mr. BEREUTER) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on International Relations, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions fall within the jurisdiction of the committee concerned

A BILL

To promote trade in United States agricultural commodities, livestock, and value-added products, and to prepare for future bilateral and multilateral trade negotiations.

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 Agricul-
5 tural Trade Act of 1999”.

1 **SEC. 2. OBJECTIVES FOR AGRICULTURAL NEGOTIATIONS.**

2 It is the sense of the Congress that—

3 The principal agricultural trade negotiating objec-
4 tives of the United States for future multilateral and bilat-
5 eral trade negotiations, including the World Trade Organi-
6 zation, shall be to achieve, on an expedited basis, and to
7 the maximum extent feasible, more open and fair condi-
8 tions for trade in agricultural commodities by—

9 (1) developing, strengthening, and clarifying
10 rules for agricultural trade, including disciplines on
11 restrictive or trade-distorting import and export
12 practices, including—

13 (A) enhancing the operation and effective-
14 ness of the relevant Uruguay Round Agree-
15 ments designed to define, deter, and discourage
16 the persistent use of unfair trade practices; and

17 (B) enforcing and strengthening rules of
18 the World Trade Organization regarding—

19 (i) trade-distorting practices of state
20 trading enterprises; and

21 (ii) the acts, practices, or policies of a
22 foreign government which unreasonably—

23 (I) require that substantial direct
24 investment in the foreign country be
25 made as a condition for carrying on
26 business in the foreign country;

1 (II) require that intellectual
2 property be licensed to the foreign
3 country or to any firm of the foreign
4 country; or

5 (III) delay or preclude implemen-
6 tation of a report of a dispute panel
7 of the World Trade Organization;

8 (2) increasing United States agricultural ex-
9 ports by eliminating barriers to trade (including
10 transparent and nontransparent barriers);

11 (3) eliminating other specific constraints to fair
12 trade and more open markets access in foreign mar-
13 kets, such as export subsidies, quotas, and other
14 nontariff import barriers;

15 (4) developing, strengthening, and clarifying
16 rules that address practices that unfairly limit
17 United States market access opportunities or distort
18 agricultural markets to the detriment of the United
19 States, including—

20 (A) unfair or trade-distorted activities of
21 state trading enterprises and other administra-
22 tive mechanisms that result in inadequate price
23 transparency;

1 (B) unjustified restrictions or commercial
2 requirements affecting new technologies, includ-
3 ing biotechnology;

4 (C) unjustified sanitary or phytosanitary
5 restrictions; and

6 (D) restrictive rules in the establishment
7 and administration of tariff-rate quotas;

8 (5) ensuring that there are reliable suppliers of
9 agricultural commodities in international commerce
10 by encouraging countries to treat foreign buyers no
11 less favorably than domestic buyers of the commod-
12 ity or product involved; and

13 (6) eliminating barriers for meeting the food
14 needs of an increasing world population through the
15 use of biotechnology by ensuring access to United
16 States commodities derived from biotechnology that
17 is scientifically defensible, opposing the establish-
18 ment of protectionist trade measures disguised as
19 health standards, and protecting continual delays by
20 other countries in their approval processes—which
21 constitute non-tariff trade barriers.

22 **SEC. 3. DEFINITIONS.**

23 As used in this Act, the terms “agricultural commod-
24 ity” and “United States agricultural commodity” have the

1 meanings provided in section 102 (1) and (7) of the Agri-
2 cultural Trade Act of 1978, respectively.

3 **SEC. 4. AGRICULTURAL COMMODITIES, LIVESTOCK, AND**
4 **PRODUCTS EXEMPT FROM SANCTIONS.**

5 (a) DEFINITION.—Unilateral Economic Sanction.
6 The term “unilateral economic sanction” means any pro-
7 hibition, restriction, or condition on economic activity, in-
8 cluding economic assistance, with respect to a foreign
9 country or foreign entity that is imposed after the date
10 of the enactment of this Act by the United States for rea-
11 sons of foreign policy or national security, except in a case
12 in which the United States imposes the measure pursuant
13 to a multilateral regime and the other members of that
14 regime have agreed to impose substantially equivalent
15 measures.

16 (b) EXEMPTION.—

17 (1) IN GENERAL.—Subject to paragraph (2),
18 and notwithstanding any other provision of law, in
19 the case of a unilateral economic sanction imposed
20 by the United States on another country, the follow-
21 ing shall be exempt from the unilateral economic
22 sanction—

23 (A) programs administered through Public
24 Law 480 (7 U.S.C. 1701 et seq.);

1 (B) programs administered through section
2 416 of the Agricultural Act of 1949 (7 U.S.C.
3 1431);

4 (C) the program administered through sec-
5 tion 1113 of the Food Security Act of 1985 (7
6 U.S.C. 1736–1); and

7 (D) commercial sales and humanitarian as-
8 sistance involving agricultural commodities,
9 which includes fertilizer.

10 (2) DETERMINATION BY PRESIDENT.—If the
11 President determines that the exemption under
12 paragraph (1) should not apply to the unilateral eco-
13 nomic sanction for reasons of foreign policy or na-
14 tional security, the President may include the activi-
15 ties described in paragraph (1) in the unilateral eco-
16 nomic sanction.

17 (d) REPORT.—

18 (1) IN GENERAL.—If the President determines
19 that the exemption under subsection (b) should not
20 apply to a unilateral economic sanction, the Presi-
21 dent shall provide a report to the Committee on Ag-
22 riculture in the House of Representatives, and the
23 Committee on Agriculture, Nutrition, and Forestry
24 in the Senate at the time of the imposition of the
25 sanction.

1 (2) CONTENTS OF REPORT.—The report shall
2 contain—

3 (A) an explanation why, because of reasons
4 of foreign policy or national security, the ex-
5 emption should not apply to the unilateral eco-
6 nomic sanction; and

7 (B) an assessment by the Secretary of
8 Agriculture—

9 (i) of the extent to which any country
10 or countries to be sanctioned or likely to be
11 sanctioned are markets that accounted for,
12 in the preceding calendar year, more than
13 3 percent of all export sales from the
14 United States of an agricultural commod-
15 ity;

16 (ii) of the likelihood that exports of
17 agricultural commodities from the United
18 States will be affected by the unilateral
19 economic sanction or by retaliation by any
20 country to be sanctioned or likely to be
21 sanctioned, and specific commodities which
22 are most likely to be affected;

23 (iii) of the likely effect on incomes of
24 producers of the commodities involved;

1 (iv) of the extent to which the unilat-
2 eral economic sanction would permit for-
3 eign suppliers to replace United States
4 suppliers; and

5 (v) of the likely effect of the proposed
6 sanction on the reputation of United
7 States farmers as reliable suppliers of agri-
8 cultural commodities in general, and of
9 specific commodities identified by the Sec-
10 retary.

11 **SEC. 5. CONGRESSIONAL OVERSIGHT AND CONSULTATION**
12 **FOR AGRICULTURAL NEGOTIATIONS.**

13 Section 161 of the Trade Act of 1974 (19 U.S.C.
14 2211) is amended by adding at the end a new subsection
15 (d) that reads as follows:

16 “(d) CONGRESSIONAL OVERSIGHT GROUP FOR AGRI-
17 CULTURAL NEGOTIATIONS.—

18 “(1) There is established a Congressional Over-
19 sight Group for Agricultural Negotiations (Oversight
20 Group) that shall provide oversight and guidance
21 with respect to agricultural trade policy and negotia-
22 tion of agricultural trade issues.

23 “(A) Subject to clauses (i) and (ii), the
24 Oversight Group shall consist of 3 members of
25 the Committee on Agriculture, Nutrition, and

1 Forestry of the Senate and 3 members of the
2 Committee on Agriculture of the House of Rep-
3 resentatives.

4 “(i) The President pro tempore of the
5 Senate, upon the recommendation of the
6 Chairman of the Committee on Agri-
7 culture, Nutrition, and Forestry, shall se-
8 lect two members from the majority party,
9 and one member from the minority party,
10 of the Senate.

11 “(ii) The Speaker of the House of
12 Representatives, upon the recommendation
13 of the Chairman of the Committee on Ag-
14 riculture, shall select 2 members from the
15 majority party, and one member from the
16 minority party, of the House of Represent-
17 atives.

18 “(B) Members of the House and Senate
19 who are selected as members of the Oversight
20 Group shall be accredited by the United States
21 Trade Representative as official advisers to the
22 United States delegations to international con-
23 ferences, meetings, and negotiating sessions re-
24 lating to agricultural trade policy and negotia-
25 tion of agricultural trade issues.

1 “(2) All negotiating proposals by the United
2 States and negotiations that affect agricultural trade
3 shall be reviewed by the Oversight Group prior to an
4 agreement being initiated by the President.

5 “(3) All information about negotiating propos-
6 als by the United States and foreign countries af-
7 fecting agricultural trade negotiations shall be made
8 available to the Oversight Group by the United
9 States Trade Representative.

10 “(4) Within 60 days of enactment of this Act,
11 the United States Trade Representative shall estab-
12 lish guidelines for ensuring the useful and timely
13 supply of information to the Oversight Group and
14 the communication of the oversight and guidance by
15 the Oversight Group to the United States Trade
16 Representative.

17 “(A) The guidelines shall establish proce-
18 dures for the United States Trade Representa-
19 tive to provide to the Oversight Group—

20 “(i) information regarding the prin-
21 cipal multilateral and bilateral negotiating
22 objectives affecting agricultural trade, and
23 the progress being made toward their
24 achievement;

1 “(ii) information regarding the imple-
2 mentation, administration, and effective-
3 ness of recently concluded multilateral and
4 bilateral agricultural trade agreements and
5 the resolution of agricultural trade dis-
6 putes;

7 “(iii) a schedule for an initial meeting,
8 prior to the commencement of negotiations
9 involving agricultural trade, between the
10 Oversight Group and the United States
11 Trade Representative, about the objectives
12 of the negotiations;

13 “(iv) written or oral briefings about
14 the status of ongoing negotiations involving
15 agricultural trade;

16 “(v) prior to the President initialing
17 the trade agreement, written or oral brief-
18 ings about the results of negotiations in-
19 volving agricultural trade;

20 “(vi) information about changes in
21 United States laws that are necessary as a
22 result of the negotiations; and

23 “(vii) a schedule and procedure for
24 the Oversight Group to provide advice and

1 guidance to the United States Trade Rep-
2 resentative regarding—

3 “(I) the negotiations involving
4 agricultural trade; and

5 “(II) changes in United States
6 laws that are necessary as a result of
7 the negotiations.

8 “(B) The United States Trade Representa-
9 tive shall meet with the Oversight Group at a
10 minimum on a quarterly basis, and as needed
11 during a negotiation involving agricultural
12 trade.

13 “(C) If determined necessary by either
14 party, consultations between the Oversight
15 Group and the United States Trade Represent-
16 ative may be conducted in executive session.”.

17 **SEC. 6. SALE OR BARTER OF FOOD ASSISTANCE.**

18 It is the sense of Congress that—

19 The amendment to section 203 of the Agricultural
20 Trade Development and Assistance Act of 1954 (Pub. L.
21 480) made in section 208 of the Federal Agriculture Im-
22 provement and Reform Act of 1996 (Pub. L. 101–127)
23 was intended to allow the sale or barter of United States
24 agricultural commodities included in United States food
25 assistance only within the recipient country or countries

1 adjacent to the recipient country, unless such sale or bar-
2 ter within the recipient country or adjacent countries—

3 (1) is not practicable; and

4 (2) will not disrupt commercial markets for the
5 agricultural commodity involved.

6 **SEC. 7. TREATMENT OF UNITED STATES AGRICULTURAL**
7 **COMMODITIES, LIVESTOCK, AND AGRICUL-**
8 **TURAL PRODUCTS.**

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

12 **“SEC. 183. IDENTIFICATION OF COUNTRIES THAT ENGAGE**
13 **IN UNFAIR TRADE PRACTICES AFFECTING**
14 **UNITED STATES AGRICULTURAL COMMOD-**
15 **ITIES.**

16 “(a) IN GENERAL.—Not later than the date that is
17 30 days after the date on which the annual report is re-
18 quired to be submitted to congressional committees under
19 section 181(b), the United States Trade Representative
20 (hereafter in this section referred to as the ‘Trade Rep-
21 resentative’) shall identify—

22 “(1) those foreign countries that—

23 “(A) deny fair and equitable market access
24 to United States agricultural commodities
25 through discriminatory nontariff trade barriers;

1 “(B) employ unfair export subsidies that
2 adversely affect market share of United States
3 exports of agricultural commodities; or

4 “(C) unreasonably delay or preclude imple-
5 mentation of a report of a dispute panel of the
6 World Trade Organization; or

7 “(2) those foreign countries identified under
8 paragraph (1) that are determined by the Trade
9 Representative to be priority foreign countries.

10 “(b) SPECIAL RULES FOR IDENTIFICATION.—

11 “(1) CRITERIA.—In identifying priority foreign
12 countries under subsection (a)(2), the Trade Rep-
13 resentative shall only identify those foreign countries
14 that—

15 “(A) engage in or have the most onerous
16 or egregious acts, policies, or practices that
17 deny fair and equitable market access to United
18 States agricultural commodities;

19 “(B) engage in discriminatory nontariff
20 trade barriers for the importation of United
21 States agricultural commodities that are not
22 based on public health concerns or cannot be
23 substantiated by reliable analytical methods;

24 “(C) use unfair export subsidies;

1 “(D) unreasonably delay or preclude imple-
2 mentation of a report of a dispute panel of the
3 World Trade Organization;

4 “(E) whose acts, policies, or practices de-
5 scribed in subparagraphs (A)–(D) have the
6 greatest adverse impact (actual or potential) on
7 the relevant United States agricultural com-
8 modities; or

9 “(F) that are not negotiating in good faith
10 about adopting fair and equitable trade prac-
11 tices, or making significant progress in bilateral
12 or multilateral negotiations, in regard to United
13 States agricultural commodities.

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

18 “(A) consult with the Secretary of Agri-
19 culture and other appropriate officers of the
20 Federal Government; and

21 “(B) take into account information from
22 such sources as may be available to the Trade
23 Representative and such information as may be
24 submitted to the Trade Representative by inter-
25 ested persons, including information contained

1 in reports submitted under section 181(b) and
2 petitions submitted under section 302.

3 “(3) FACTUAL BASIS REQUIREMENT.—The
4 Trade Representative may identify a foreign country
5 under subsection (a)(1) only if the Trade Represent-
6 ative finds that there is a factual basis for identify-
7 ing the foreign country as engaging in a trade prac-
8 tice under subsection (a)(1).

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

13 “(A) the history of agricultural trade rela-
14 tions with the foreign country, including any
15 previous identification under subsection (a)(2);
16 and

17 “(B) the history of efforts of the United
18 States, and the response of the foreign country,
19 to achieve fair trade practices affecting trade in
20 the United States agricultural commodities.

21 “(c) REVOCATIONS AND ADDITIONAL IDENTIFICA-
22 TIONS.—

23 “(1) AUTHORITY TO ACT AT ANY TIME.—If in-
24 formation available to the Trade Representative indi-

1 cates that such action is appropriate, the Trade
2 Representative may at any time—

3 “(A) revoke the identification of any for-
4 eign country as a priority foreign country under
5 this section; or

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

8 “(2) REVOCATION REPORTS.—The Trade Rep-
9 resentative shall include in the semiannual report
10 submitted to the Congress under section 309(3) a
11 detailed explanation of the reasons for the revocation
12 under paragraph (1) of the identification of any for-
13 eign country as a priority foreign country under this
14 section.

15 “(d) DEFINITIONS.—For purposes of this section, the
16 terms ‘agricultural commodity’ and ‘United States agricul-
17 tural commodity’ have the meanings provided in section
18 102 (1) and (7) of the Agricultural Trade Act of 1978,
19 respectively.

20 “(e) PUBLICATION.—The Trade Representative shall
21 publish in the Federal Register a list of foreign countries
22 identified under subsection (a) and shall make such revi-
23 sions to the list as may be required by reason of the action
24 under subsection (c).

1 “(f) ANNUAL REPORT.—The Trade Representative
2 shall, not later than the date by which countries are identi-
3 fied under subsection (a), transmit to the Committee on
4 Ways and Means and the Committee on Agriculture of the
5 House of Representatives and the Committee on Finance
6 and the Committee on Agriculture, Nutrition, and For-
7 estry of the Senate, a report on the actions taken under
8 this section during the 12 months preceding such report,
9 and the reasons for such actions, including a description
10 of progress made in achieving fair and equitable market
11 access for United States agricultural commodities.”.

12 (b) REMEDIAL ACTIONS TO UNFAIR TRADE PRAC-
13 TICES INVOLVING UNITED STATES AGRICULTURAL COM-
14 MODITIES, LIVESTOCK, AND AGRICULTURAL PROD-
15 UCTS.—

16 (1) Section 301 of the Trade Act of 1974 (19
17 U.S.C. 2411) is amended—

18 (A) in subsection (a)(1) by inserting “sec-
19 tion 183(a) or” after “determines under”;

20 (B) in subsection (b) by inserting “section
21 183(a) or” after “determines under”;

22 (C) in subsection (c)(1)—

23 (i) in subparagraph (C) by striking
24 “section; or” and inserting “section;”

1 (ii) in subparagraph (D) by striking
2 “paragraph (4).” and inserting “paragraph
3 (4); or”; and

4 (iii) by adding a new subparagraph
5 (E) as follows:

6 “(E) with respect to an investigation of a
7 country identified under section 183(a)—

8 “(I) take any action authorized
9 under this subsection; and

10 “(II) to request that the Sec-
11 retary of Agriculture target the use of
12 existing United States export pro-
13 grams that are administered within
14 the Department of Agriculture to the
15 commodity that is subject to the un-
16 fair trade practice by the priority for-
17 eign country.”.

18 (c) CLERICAL AMENDMENT.—The table of contents
19 for the Trade Act of 1974 is amended by inserting after
20 the item relating to section 182 the following:

“Sec. 183. Identification of Countries That Engage in Unfair Trade Practices
Affecting United States Agricultural Commodities.”.

21 (d) INVESTIGATION REQUIRED.—Subparagraph (A)
22 of section 302(b)(2) of the Trade Act of 1974 (19 U.S.C.
23 2412(b)(2)(A)) is amended by inserting “or 183(a)(2)”

1 after “section 182(a)(2)” in the matter preceding clause
2 (i).

3 (e) CONFORMING AMENDMENTS.—

4 (1) Subparagraph (D) of section 302(b)(2) of
5 such Act is amended by inserting “concerning intel-
6 lectual property rights that is” after “any investiga-
7 tion”.

8 (2) Subparagraph (B) of section 304(a)(3) of
9 such Act is amended—

10 (A) by striking “or” at the end of clause

11 (ii);

12 (B) by inserting “or” at the end of clause

13 (iii); and

14 (C) by inserting immediately after clause

15 (iii) the following new clause:

16 “(iv) the foreign country involved in
17 the investigation is making substantial
18 progress in drafting or implementing legis-
19 lative or administrative measures that en-
20 sure the country engages in fair and equi-
21 table trade practices affecting United
22 States agricultural commodities.”.

1 **SEC. 8. DUTIES OF AGRICULTURE DEPARTMENT REGARD-**
2 **ING SANITARY AND PHYTOSANITARY ISSUES.**

3 (a) **LEAD AGENCY STATUS.**—Title I of the Agricul-
4 tural Trade Act of 1978 (7 U.S.C. 5601 et seq.) is amend-
5 ed by adding at the end the following new section:

6 **“SEC. 107. SANITARY AND PHYTOSANITARY ISSUES.**

7 “The Department of Agriculture shall be the lead
8 agency in the Federal Government for sanitary and
9 phytosanitary issues that affect agricultural exports.”.

10 (b) **DATA COLLECTION AND REPORT.**—The Sec-
11 retary shall identify sanitary and phytosanitary measures
12 currently negatively affecting agricultural exports, by
13 country and commodity, noting—

14 (1) whether such measures are consistent with
15 the World Trade Organization sanitary and
16 phytosanitary agreement; and

17 (2) whether issues arising from such measures
18 are being addressed and resolved;

19 and report the Secretary’s findings thereon to Congress
20 not later than July 31, 1999.

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