

108TH CONGRESS  
1ST SESSION

# H. R. 2579

To amend the Trade Act of 1974 to establish procedures for identifying countries that deny market access for agricultural products of the United States, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2003

Mr. CAMP (for himself, Mr. POMEROY, Mr. GOODLATTE, Mr. BLUNT, Mr. McINNIS, Mr. HOUGHTON, Mr. PETERSON of Minnesota, Mr. BOEHNER, Mr. HOLDEN, Mr. GUTKNECHT, Mr. UPTON, Mr. MORAN of Kansas, Mr. JANKLOW, Mr. ROSS, Mr. REHBERG, Mrs. MILLER of Michigan, Mr. MANZULLO, Mr. BEREUTER, Mr. BURNS, Mr. HOEKSTRA, Mr. ROGERS of Michigan, Mr. GRAVES, Mr. NUNES, Mr. SCOTT of Georgia, Mr. KING of Iowa, Mr. CASE, Mr. MCHUGH, Mr. HAYES, Mr. OSE, Mr. POMBO, Mr. SHIMKUS, Mr. SMITH of Michigan, Mr. LEWIS of Kentucky, and Mr. RAMSTAD) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Trade Act of 1974 to establish procedures for identifying countries that deny market access for agricultural products of the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “United States Agricul-  
3 tural Products Market Access Act of 2003”.

4 **SEC. 2. FINDINGS; PURPOSES.**

5 (a) FINDINGS.—Congress makes the following find-  
6 ings:

7 (1) The export of agricultural products is of  
8 vital importance to the economy of the United  
9 States.

10 (2) In 2002, agriculture was a large positive  
11 contributor to the United States merchandise trade  
12 balance with a trade surplus of \$12,300,000,000.

13 (3) The growth of United States agricultural  
14 exports should continue to be an important factor in  
15 improving the United States merchandise trade bal-  
16 ance.

17 (4) Increasing the volume of agricultural ex-  
18 ports will increase farm income in the United States,  
19 thereby protecting family farms and contributing to  
20 the economic well-being of rural communities in the  
21 United States.

22 (5) Although the United States efficiently pro-  
23 duces high-quality agricultural products, United  
24 States producers cannot realize their full export po-  
25 tential because many foreign countries deny fair and

1 equitable market access to United States agricul-  
2 tural products.

3 (6) The Foreign Agricultural Service estimates  
4 that United States agricultural exports are reduced  
5 by \$4,700,000,000 annually due to unjustifiable im-  
6 position of sanitary and phytosanitary measures that  
7 deny or limit market access to United States prod-  
8 ucts.

9 (7) The denial of fair and equitable market ac-  
10 cess for United States agricultural products impedes  
11 the ability of United States farmers to export their  
12 products, thereby harming the economic interests of  
13 the United States.

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

15 (1) to reduce or eliminate foreign unfair trade  
16 practices and to remove constraints on fair and open  
17 trade in agricultural products;

18 (2) to ensure fair and equitable market access  
19 for exports of United States agricultural products;  
20 and

21 (3) to promote free and fair trade in agricul-  
22 tural products.

1 **SEC. 3. IDENTIFICATION OF COUNTRIES THAT DENY MAR-**  
2 **KET ACCESS.**

3 (a) IDENTIFICATION REQUIRED.—Chapter 8 of title  
4 I of the Trade Act of 1974 (19 U.S.C. 2241 et seq.) is  
5 amended by adding at the end the following:

6 **“SEC. 183. IDENTIFICATION OF COUNTRIES THAT DENY**  
7 **MARKET ACCESS FOR AGRICULTURAL PROD-**  
8 **UCTS.**

9 “(a) IN GENERAL.—Not later than the date that is  
10 30 days after the date on which the annual report is re-  
11 quired to be submitted to Congressional committees under  
12 section 181(b), the United States Trade Representative  
13 (in this section referred to as the ‘Trade Representative’)  
14 shall identify—

15 “(1) those foreign countries that—

16 “(A) deny fair and equitable market access  
17 to United States agricultural products, or

18 “(B) apply standards for the importation  
19 of agricultural products from the United States  
20 that are not related to public health concerns or  
21 cannot be substantiated by reliable analytical  
22 methods, and

23 “(2) those foreign countries identified under  
24 paragraph (1) that are determined by the Trade  
25 Representative to be priority foreign countries.

26 “(b) SPECIAL RULES FOR IDENTIFICATIONS.—

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

5                   “(A) that engage in or have the most oner-  
6 ous or egregious acts, policies, or practices that  
7 deny fair and equitable market access to United  
8 States agricultural products,

9                   “(B) whose acts, policies, or practices de-  
10 scribed in subparagraph (A) have the greatest  
11 adverse impact (actual or potential) on the rel-  
12 evant United States products, and

13                   “(C) that are not—

14                           “(i) entering into good faith negotia-  
15 tions, or

16                           “(ii) making significant progress in  
17 bilateral or multilateral negotiations,

18 to provide fair and equitable market access to  
19 United States agricultural products.

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

1           “(A) consult with the Secretary of Agri-  
2           culture and other appropriate officers of the  
3           Federal Government, and

4           “(B) take into account information from  
5           such sources as may be available to the Trade  
6           Representative and such information as may be  
7           submitted to the Trade Representative by inter-  
8           ested persons, including information contained  
9           in reports submitted under section 181(b) and  
10          petitions submitted under section 302.

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

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

22                 “(A) the history of agricultural trade rela-  
23                 tions with the foreign country, including any  
24                 previous identification under subsection (a)(2),  
25                 and

1           “(B) the history of efforts of the United  
2           States, and the response of the foreign country,  
3           to achieve fair and equitable market access for  
4           United States agricultural products.

5           “(c) REVOCATIONS AND ADDITIONAL IDENTIFICA-  
6           TIONS.—

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

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

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

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

23          “(d) DENIAL OF FAIR AND EQUITABLE MARKET AC-  
24          CESS DEFINED.—For purposes of this section, a foreign  
25          country denies fair and equitable market access if the for-

1 eign country effectively denies access to a market for a  
2 product through the use of laws, procedures, practices, or  
3 regulations which—

4           “(1) violate provisions of international law or  
5 international agreements to which both the United  
6 States and the foreign country are parties, or

7           “(2) constitute discriminatory nontariff trade  
8 barriers.

9           “(e) PUBLICATION.—The Trade Representative shall  
10 publish in the Federal Register a list of foreign countries  
11 identified under subsection (a) and shall make such revi-  
12 sions to the list as may be required by reason of the action  
13 under subsection (c).

14           “(f) ANNUAL REPORT.—The Trade Representative  
15 shall, not later than the date by which countries are identi-  
16 fied under subsection (a), transmit to the Committee on  
17 Ways and Means and the Committee on Agriculture of the  
18 House of Representatives and the Committee on Finance  
19 and the Committee on Agriculture, Nutrition, and For-  
20 estry of the Senate, a report on the actions taken under  
21 this section during the 12 months preceding such report,  
22 and the reasons for such actions, including a description  
23 of progress made in achieving fair and equitable market  
24 access for United States agricultural products.”.

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

“183. Identification of countries that deny market access for agricultural prod-  
ucts.”.

4 (c) ADDITIONAL STAFF FOR OFFICE OF ASSISTANT  
5 TRADE REPRESENTATIVE FOR AGRICULTURAL AFFAIRS  
6 AND OFFICE OF ASSISTANT TRADE REPRESENTATIVE  
7 FOR MONITORING AND ENFORCEMENT.—

8 (1) IN GENERAL.—There is authorized to be  
9 appropriated such sums as may be necessary for fis-  
10 cal year 2004 for the salaries and expenses of 1 ad-  
11 ditional specialist employee position within the Office  
12 of the Assistant United States Trade Representative  
13 for Agricultural Affairs and 1 additional specialist  
14 employee position within the Office of the Assistant  
15 United States Trade Representative for Monitoring  
16 and Enforcement.

17 (2) AVAILABILITY.—Amounts appropriated pur-  
18 suant to the authorization of appropriations under  
19 paragraph (1) are authorized to remain available  
20 until expended.

21 **SEC. 4. INVESTIGATIONS.**

22 (a) INVESTIGATION REQUIRED.—Subparagraph (A)  
23 of section 302(b)(2) of the Trade Act of 1974 (19 U.S.C.

1 2412(b)(2)) is amended by inserting “or 183(a)(2)” after  
2 “section 182(a)(2)” in the matter preceding clause (i).

3 (b) CONFORMING AMENDMENT.—Subparagraph (D)  
4 of section 302(b)(2) of such Act is amended by inserting  
5 “concerning intellectual property rights that is” after  
6 “any investigation”.

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