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To direct the United States Trade Representative to enforce United States rights under certain trade agreements with respect to Mexico, pursuant to title III of the Trade Act of 1974.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 25, 2003

Mr. GRASSLEY introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To direct the United States Trade Representative to enforce United States rights under certain trade agreements with respect to Mexico, pursuant to title III of the Trade Act of 1974.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Mexican Agricultural Trade Compliance Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Section 301 of the Trade Act of 1974 provides that, if the United States Trade Representative determines that the rights of the United States under any trade agreement are being denied, the Trade Representative shall take action to enforce such rights.

(2) The Statement of Administrative Action accompanying the Uruguay Round Agreements Act provided that the United States Trade Representative would base any section 301 determination as to whether there has been a violation or denial of United States rights under the Uruguay Round Agreements on panel or Appellate Body findings adopted by the Dispute Settlement Body of the World Trade Organization.

(3) In a panel report adopted by the Dispute Settlement Body on January 27, 2000, the Dispute Settlement Body determined that section 301 of the Trade Act of 1974 is not inconsistent with United States obligations under the Uruguay Round Agreements, particularly in light of the decision of the United States to use section 301 only after exhausting its rights under the Dispute Settlement Understanding.

(4) On January 28, 2000, a panel of the World Trade Organization determined that Mexico's antidumping order on high fructose corn syrup imported from the United States violated Mexico's commitments under the Uruguay Round Agreements.

(5) On February 24, 2000, the Dispute Settlement Body adopted the report of the panel.

(6) On April 10, 2000, the United States and Mexico agreed to a September 22, 2000, deadline for Mexico to come into compliance with the panel report as adopted by the Dispute Settlement Body.

(7) On September 20, 2000, just 2 days prior to the date Mexico had agreed to come into compliance with the panel report, Mexico issued a revised antidumping threat determination in an obvious attempt to evade its commitment to come into compliance with the panel report adopted by the Dispute Settlement Body.

(8) On June 22, 2001, a panel, convened pursuant to Article 21.5 of the Dispute Settlement Understanding, found that Mexico's revised antidumping threat determination failed to bring Mexico into compliance with its commitments under the World Trade Organization.

(9) On October 22, 2001, the Appellate Body affirmed the ruling of the Article 21.5 panel and recommended that Mexico come into compliance with its obligations under the World Trade Organization.

(10) On November 21, 2001, the Dispute Settlement Body adopted the Appellate Body ruling that affirmed the findings of the Article 21.5 panel.

(11) On January 1, 2002, in a transparent attempt to evade the determinations of the Dispute Settlement Body regarding Mexico's antidumping order on high fructose corn syrup, and in an affront to the rules-based system of the World Trade Organization, Mexico imposed a de facto discriminatory 20 percent tax on soft drinks containing high fructose corn syrup, the intent and effect of which is to continue Mexico's antidumping order on United States high fructose corn syrup by other means by restricting access to the Mexican market.

(12) On April 20, 2002, with its discriminatory tax on soft drinks containing high fructose corn syrup now in place, and in a continuous event with the imposition of this tax, Mexico lifted its antidumping order on high fructose corn syrup. Importantly, Mexico lifted its antidumping order only after ensuring that imports of United States high fructose

corn syrup would not enter the Mexican market due to the imposition of the tax on soft drinks. Mexico's lifting of its antidumping order enabled it to make the disingenuous claim that it had come into compliance with the findings adopted by the Dispute Settlement Body regarding Mexico's antidumping order.

(13) The imposition of the tax on soft drinks and the lifting of the antidumping order by Mexico are related aspects of a unified effort by Mexico to deny the rights of the United States with respect to the trade of high fructose corn syrup.

(14) The effects of the import restrictions of Mexico's antidumping order continue with even more egregious results through the imposition of a 20 percent tax on high fructose corn syrup. Imports of high fructose corn syrup from the United States dropped from 110,893 metric tons in 2001 (the year prior to the lifting of the antidumping order) to 4,868 metric tons in 2002 (the first year of the tax).

(15) The United States has exhausted proceedings under the Dispute Settlement Understanding, and the Dispute Settlement Body has on more than 1 occasion adopted findings adverse to Mexico.

SEC. 3. DEFINITIONS.

In this Act:

(1) APPELLATE BODY.—The term ''Appellate Body'' means the Appellate Body established under Article 17.1 of the Dispute Settlement Understanding.

(2) DISPUTE SETTLEMENT BODY.—The term ''Dispute Settlement Body'' has the meaning given that term in section 121(5) of the Uruguay Round Agreements Act (19 U.S.C. 3531(5)).

(3) DISPUTE SETTLEMENT PANEL; PANEL.—The terms ''dispute settlement panel'' and ''panel'' mean a panel established pursuant to Article 6 of the Dispute Settlement Understanding.

(4) DISPUTE SETTLEMENT UNDERSTANDING.—The term ''Dispute Settlement Understanding'' means the Understanding on Rules and Procedures Governing the Settlement of Disputes referred to in section 101(d)(16) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(16)).

(5) GATT 1994.—The term ''GATT 1994'' has the meaning given such term in section 2(1)(B) of the Uruguay Round Agreements Act (19 U.S.C. 3501(1)(B).

(6) URUGUAY ROUND AGREEMENTS.—The term ''Uruguay Round Agreements'' has the meaning

given such term in section 2(7) of the Uruguay Round Agreements Act (19 U.S.C. 3501(7).

(7) WORLD TRADE ORGANIZATION.—The term ''World Trade Organization'' means the organization established pursuant to the WTO Agreement.

(8) WTO AGREEMENT.—The term ''WTO Agreement'' means the Agreement Establishing The World Trade Organization entered into on April 15, 1994.

SEC. 4. ENFORCEMENT OF UNITED STATES RIGHTS UNDER THE URUGUAY ROUND AGREEMENTS AND OTHER TRADE AGREEMENTS WITH RESPECT TO HIGH FRUCTOSE CORN SYRUP EXPORTED TO MEXICO.

(a) DETERMINATION.—Congress determines that—

(1) the rights of the United States under the Uruguay Round Agreements are being denied by Mexico in connection with the imposition by Mexico of a 20 percent tax on soft drinks containing high fructose corn syrup, an extension by other means of Mexico's unjustified antidumping order on high fructose corn syrup from the United States;

(2) the United States has exhausted proceedings under the Dispute Settlement Understanding;

(3) Mexico's imposition of a tax on high fructose corn syrup, an extension by other means of its unjustified antidumping order on high fructose corn syrup from the United States—

(A) constitutes an act, policy, or practice by Mexico that is unjustifiable and burdens or restricts United States commerce for purposes of section 304(a)(1) of the Trade Act of 1974 (19 U.S.C. 2414(a)(1)); and

(B) denies rights to which the United States is entitled under existing trade agreements with Mexico for purposes of such section 304; and

(4) unless, a certification described in subsection (b) is submitted, the United States Trade Representative shall take appropriate action under subsection (c).

(b) CERTIFICATION.—The certification described in this subsection means a certification from the United States Trade Representative submitted to Congress not later than 30 days after the date of enactment of this Act that states that Mexico has eliminated its tax on soft drinks containing high fructose corn syrup and is taking satisfactory measures to preserve the rights of the United

States under all applicable trade agreements with respect to high fructose corn syrup.

(c) ACTION TO BE TAKEN BY USTR.—If a certification is not made under subsection (b), the United States Trade Representative, not later than 60 days after the date of enactment of this Act and after consultation with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, shall, pursuant to section 301(c)(1) (A) and (B) of the Trade Act of 1974 (19 U.S.C. 2411(c)(1) (A) and (B))—

(1) suspend, withdraw, or prevent the application of, benefits of trade agreement concessions to carry out a trade agreement with Mexico; or

(2) impose duties or other import restrictions on the goods of Mexico, including agricultural products imported from Mexico, and notwithstanding any other provision of law, fees or restrictions on the services of, Mexico for such time as the Trade Representative determines appropriate.

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