

108TH CONGRESS
1ST SESSION

S. 1324

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.

IN THE SENATE OF THE UNITED STATES

JUNE 24, 2003

Mr. GRASSLEY (for himself and Mr. BAUCUS) introduced the following bill;
which was read twice and referred to the Committee on Finance

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,*

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. FINDINGS; PURPOSES.**

7 (a) FINDINGS.—Congress makes the following find-
8 ings:

1 (1) The export of agricultural products is of
2 vital importance to the economy of the United
3 States.

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

7 (3) The growth of United States agricultural
8 exports should continue to be an important factor in
9 improving the United States merchandise trade bal-
10 ance.

11 (4) Increasing the volume of agricultural ex-
12 ports will increase farm income in the United States,
13 thereby protecting family farms and contributing to
14 the economic well-being of rural communities in the
15 United States.

16 (5) Although the United States efficiently pro-
17 duces high-quality agricultural products, United
18 States producers cannot realize their full export po-
19 tential because many foreign countries deny fair and
20 equitable market access to United States agricul-
21 tural products.

22 (6) The Foreign Agricultural Service estimates
23 that United States agricultural exports are reduced
24 by \$4,700,000,000 annually due to unjustifiable im-
25 position of sanitary and phytosanitary measures that

1 deny or limit market access to United States prod-
2 ucts.

3 (7) The denial of fair and equitable market ac-
4 cess for United States agricultural products impedes
5 the ability of United States farmers to export their
6 products, thereby harming the economic interests of
7 the United States.

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

9 (1) to reduce or eliminate foreign unfair trade
10 practices and to remove constraints on fair and open
11 trade in agricultural products;

12 (2) to ensure fair and equitable market access
13 for exports of United States agricultural products;
14 and

15 (3) to promote free and fair trade in agricul-
16 tural products.

17 **SEC. 3. IDENTIFICATION OF COUNTRIES THAT DENY MAR-**
18 **KET ACCESS.**

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

1 **“SEC. 183. IDENTIFICATION OF COUNTRIES THAT DENY**
 2 **MARKET ACCESS FOR AGRICULTURAL PROD-**
 3 **UCTS.**

4 “(a) IN GENERAL.—Not later than the date that is
 5 30 days after the date on which the annual report is re-
 6 quired to be submitted to Congressional committees under
 7 section 181(b), the United States Trade Representative
 8 (in this section referred to as the ‘Trade Representative’)
 9 shall identify—

10 “(1) those foreign countries that—

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

13 “(B) apply standards for the importation
 14 of agricultural products from the United States
 15 that are not related to public health concerns or
 16 cannot be substantiated by reliable analytical
 17 methods, and

18 “(2) those foreign countries identified under
 19 paragraph (1) that are determined by the Trade
 20 Representative to be priority foreign countries.

21 “(b) SPECIAL RULES FOR IDENTIFICATIONS.—

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

1 “(A) that engage in or have the most oner-
 2 ous or egregious acts, policies, or practices that
 3 deny fair and equitable market access to United
 4 States agricultural products,

5 “(B) whose acts, policies, or practices de-
 6 scribed in subparagraph (A) have the greatest
 7 adverse impact (actual or potential) on the rel-
 8 evant United States products, and

9 “(C) that are not—

10 “(i) entering into good faith negotia-
 11 tions, or

12 “(ii) making significant progress in
 13 bilateral or multilateral negotiations,
 14 to provide fair and equitable market access to
 15 United States agricultural products.

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

20 “(A) consult with the Secretary of Agri-
 21 culture and other appropriate officers of the
 22 Federal Government, and

23 “(B) take into account information from
 24 such sources as may be available to the Trade
 25 Representative and such information as may be

submitted to the Trade Representative by interested persons, including information contained in reports submitted under section 181(b) and petitions submitted under section 302.

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

“(4) CONSIDERATION OF HISTORICAL FACTORS.—In identifying foreign countries under paragraphs (1) and (2) of subsection (a), the Trade Representative shall take into account—

“(A) the history of agricultural trade relations with the foreign country, including any previous identification under subsection (a)(2), and

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

“(c) REVOCATIONS AND ADDITIONAL IDENTIFICATIONS.—

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

5 “(A) revoke the identification of any for-
6 eign country as a priority foreign country under
7 this section, or

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

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

17 “(d) DENIAL OF FAIR AND EQUITABLE MARKET AC-
18 CESS DEFINED.—For purposes of this section, a foreign
19 country denies fair and equitable market access if the for-
20 eign country effectively denies access to a market for a
21 product through the use of laws, procedures, practices, or
22 regulations which—

23 “(1) violate provisions of international law or
24 international agreements to which both the United
25 States and the foreign country are parties, or

1 “(2) constitute discriminatory nontariff trade
2 barriers.

3 “(e) PUBLICATION.—The Trade Representative shall
4 publish in the Federal Register a list of foreign countries
5 identified under subsection (a) and shall make such revi-
6 sions to the list as may be required by reason of the action
7 under subsection (c).

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

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

“Sec. 183. Identification of countries that deny market access for agricultural
products.”.

22 (c) ADDITIONAL STAFF FOR OFFICE OF ASSISTANT
23 TRADE REPRESENTATIVE FOR AGRICULTURAL AFFAIRS

1 AND OFFICE OF ASSISTANT TRADE REPRESENTATIVE
2 FOR MONITORING AND ENFORCEMENT.—

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

12 (2) AVAILABILITY.—Amounts appropriated pur-
13 suant to the authorization of appropriations under
14 paragraph (1) are authorized to remain available
15 until expended.

16 **SEC. 4. INVESTIGATIONS.**

17 (a) INVESTIGATION REQUIRED.—Subparagraph (A)
18 of section 302(b)(2) of the Trade Act of 1974 (19 U.S.C.
19 2412(b)(2)) is amended by inserting “or 183(a)(2)” after
20 “section 182(a)(2)” in the matter preceding clause (i).

21 (b) CONFORMING AMENDMENT.—Subparagraph (D)
22 of section 302(b)(2) of such Act is amended by inserting
23 “concerning intellectual property rights that is” after
24 “any investigation”.

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