

108TH CONGRESS
1ST SESSION

S. 1952

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

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.

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 “Mexican Agricultural
5 Trade Compliance Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) Section 301 of the Trade Act of 1974 pro-
2 vides that, if the United States Trade Representa-
3 tive determines that the rights of the United States
4 under any trade agreement are being denied, the
5 Trade Representative shall take action to enforce
6 such rights.

7 (2) The Statement of Administrative Action ac-
8 companying the Uruguay Round Agreements Act
9 provided that the United States Trade Representa-
10 tive would base any section 301 determination as to
11 whether there has been a violation or denial of
12 United States rights under the Uruguay Round
13 Agreements on panel or Appellate Body findings
14 adopted by the Dispute Settlement Body of the
15 World Trade Organization.

16 (3) In a panel report adopted by the Dispute
17 Settlement Body on January 27, 2000, the Dispute
18 Settlement Body determined that section 301 of the
19 Trade Act of 1974 is not inconsistent with United
20 States obligations under the Uruguay Round Agree-
21 ments, particularly in light of the decision of the
22 United States to use section 301 only after exhaust-
23 ing its rights under the Dispute Settlement Under-
24 standing.

1 (4) On January 28, 2000, a panel of the World
2 Trade Organization determined that Mexico's anti-
3 dumping order on high fructose corn syrup imported
4 from the United States violated Mexico's commit-
5 ments under the Uruguay Round Agreements.

6 (5) On February 24, 2000, the Dispute Settle-
7 ment Body adopted the report of the panel.

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

12 (7) On September 20, 2000, just 2 days prior
13 to the date Mexico had agreed to come into compli-
14 ance with the panel report, Mexico issued a revised
15 antidumping threat determination in an obvious at-
16 tempt to evade its commitment to come into compli-
17 ance with the panel report adopted by the Dispute
18 Settlement Body.

19 (8) On June 22, 2001, a panel, convened pur-
20 suant to Article 21.5 of the Dispute Settlement Un-
21 derstanding, found that Mexico's revised anti-
22 dumping threat determination failed to bring Mexico
23 into compliance with its commitments under the
24 World Trade Organization.

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

5 (10) On November 21, 2001, the Dispute Set-
6 tlement Body adopted the Appellate Body ruling
7 that affirmed the findings of the Article 21.5 panel.

8 (11) On January 1, 2002, in a transparent at-
9 tempt to evade the determinations of the Dispute
10 Settlement Body regarding Mexico's antidumping
11 order on high fructose corn syrup, and in an affront
12 to the rules-based system of the World Trade Orga-
13 nization, Mexico imposed a de facto discriminatory
14 20 percent tax on soft drinks containing high fruc-
15 tose corn syrup, the intent and effect of which is to
16 continue Mexico's antidumping order on United
17 States high fructose corn syrup by other means by
18 restricting access to the Mexican market.

19 (12) On April 20, 2002, with its discriminatory
20 tax on soft drinks containing high fructose corn
21 syrup now in place, and in a continuous event with
22 the imposition of this tax, Mexico lifted its anti-
23 dumping order on high fructose corn syrup. Import-
24 tantly, Mexico lifted its antidumping order only after
25 ensuring that imports of United States high fructose

1 corn syrup would not enter the Mexican market due
2 to the imposition of the tax on soft drinks. Mexico's
3 lifting of its antidumping order enabled it to make
4 the disingenuous claim that it had come into compli-
5 ance with the findings adopted by the Dispute Set-
6 tlement Body regarding Mexico's antidumping order.

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

12 (14) The effects of the import restrictions of
13 Mexico's antidumping order continue with even more
14 egregious results through the imposition of a 20 per-
15 cent tax on high fructose corn syrup. Imports of
16 high fructose corn syrup from the United States
17 dropped from 110,893 metric tons in 2001 (the year
18 prior to the lifting of the antidumping order) to
19 4,868 metric tons in 2002 (the first year of the tax).

20 (15) The United States has exhausted pro-
21 ceedings under the Dispute Settlement Under-
22 standing, and the Dispute Settlement Body has on
23 more than 1 occasion adopted findings adverse to
24 Mexico.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) APPELLATE BODY.—The term “Appellate
4 Body” means the Appellate Body established under
5 Article 17.1 of the Dispute Settlement Under-
6 standing.

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

11 (3) DISPUTE SETTLEMENT PANEL; PANEL.—
12 The terms “dispute settlement panel” and “panel”
13 mean a panel established pursuant to Article 6 of
14 the Dispute Settlement Understanding.

15 (4) DISPUTE SETTLEMENT UNDERSTANDING.—
16 The term “Dispute Settlement Understanding”
17 means the Understanding on Rules and Procedures
18 Governing the Settlement of Disputes referred to in
19 section 101(d)(16) of the Uruguay Round Agree-
20 ments Act (19 U.S.C. 3511(d)(16)).

21 (5) GATT 1994.—The term “GATT 1994” has
22 the meaning given such term in section 2(1)(B) of
23 the Uruguay Round Agreements Act (19 U.S.C.
24 3501(1)(B)).

25 (6) URUGUAY ROUND AGREEMENTS.—The term
26 “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;

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

5 (A) constitutes an act, policy, or practice
6 by Mexico that is unjustifiable and burdens or
7 restricts United States commerce for purposes
8 of section 304(a)(1) of the Trade Act of 1974
9 (19 U.S.C. 2414(a)(1)); and

10 (B) denies rights to which the United
11 States is entitled under existing trade agree-
12 ments with Mexico for purposes of such section
13 304; and

14 (4) unless, a certification described in sub-
15 section (b) is submitted, the United States Trade
16 Representative shall take appropriate action under
17 subsection (c).

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

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

3 (c) ACTION TO BE TAKEN BY USTR.—If a certifi-
 4 cation is not made under subsection (b), the United States
 5 Trade Representative, not later than 60 days after the
 6 date of enactment of this Act and after consultation with
 7 the Committee on Finance of the Senate and the Com-
 8 mittee on Ways and Means of the House of Representa-
 9 tives, shall, pursuant to section 301(c)(1) (A) and (B) of
 10 the Trade Act of 1974 (19 U.S.C. 2411(c)(1) (A) and
 11 (B))—

12 (1) suspend, withdraw, or prevent the applica-
 13 tion of, benefits of trade agreement concessions to
 14 carry out a trade agreement with Mexico; or

15 (2) impose duties or other import restrictions
 16 on the goods of Mexico, including agricultural prod-
 17 ucts imported from Mexico, and notwithstanding any
 18 other provision of law, fees or restrictions on the
 19 services of, Mexico for such time as the Trade Rep-
 20 resentative determines appropriate.

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