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H. R. 764

To authorize the President to take certain actions relating to reciprocal trade, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 24, 2019

Mr. DUFFY (for himself, Mr. ADERHOLT, Mr. COLLINS of New York, Mr. COOK, Mr. DIAZ-BALART, Mr. GAETZ, Mr. GIBBS, Mr. KELLY of Pennsylvania, Mr. LONG, Mr. MCKINLEY, Mrs. MILLER, Mr. SENSENBRENNER, Mr. STAUBER, Mr. HUNTER, Mr. CRAWFORD, Mr. KING of New York, Mr. BURGESS, Mr. PALAZZO, and Mr. ROUZER) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To authorize the President to take certain actions relating to reciprocal trade, 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 Recip-
5 rocal Trade Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) The United States maintains an open mar-
4 ket for goods, with relatively low tariffs, and has
5 long encouraged trading partners, both bilaterally
6 and in multilateral fora, to liberalize their markets.

7 (2) The United States is the world's largest im-
8 porter of goods.

9 (3) Trading partners of the United States in
10 many instances impose significantly higher tariffs on
11 United States goods than the United States imposes
12 on the same or similar goods imported from those
13 same countries.

14 (4) United States trading partners in many in-
15 stances impose significant nontariff barriers that
16 greatly undermine the value of negotiated tariff con-
17 cessions.

18 (5) The lack of reciprocity in tariff levels and
19 disproportionate use of nontariff barriers by United
20 States trading partners facilitates foreign imports,
21 discourages United States exports, and puts United
22 States producers, farmers, and workers at a com-
23 petitive disadvantage.

24 (6) The lack of reciprocity in tariff levels and
25 nontariff barriers contributes to the large and grow-
26 ing United States trade deficit in goods, which is a

1 drag on economic growth and undermines economic
2 prosperity.

3 (7) To date a number of United States trading
4 partners have been unwilling, including in multilat-
5 eral negotiations, to reduce tariffs and eliminate
6 nontariff barriers applied to United States exports.

7 (8) The United States should seek action by
8 United States trading partners to lower tariffs and
9 eliminate nontariff barriers, to promote efficiency in
10 those markets and enhance opportunities for United
11 States producers, farmers, and workers.

12 (9) The President should have a wide array of
13 tools to open the markets of United States trading
14 partners and encourage participation in negotiations
15 to liberalize trade in goods on a fair and reciprocal
16 basis, including the authority to adjust tariff rates
17 to reciprocal levels.

18 **SEC. 3. AUTHORITY TO TAKE CERTAIN ACTIONS RELATING**
19 **TO RECIPROCAL TRADE.**

20 (a) IN GENERAL.—If the President determines
21 that—

22 (1) the rate of duty imposed by a foreign coun-
23 try with respect to a particular good, when imported
24 from the United States, is significantly higher than

1 the rate of duty imposed by the United States on
2 that good, when imported from that country, or

3 (2) the nontariff barriers applied by a foreign
4 country with respect to a particular good, when im-
5 ported from the United States, impose significantly
6 higher burdens, alone or in combination with any
7 tariffs imposed by that country on that good, than
8 the burdens of the nontariff barriers applied by the
9 United States with respect to that good, alone or in
10 combination with any tariffs imposed by the United
11 States on that good, when imported from that coun-
12 try,

13 the President may take one or more of the actions author-
14 ized under subsection (b).

15 (b) ACTIONS AUTHORIZED.—The actions authorized
16 under this subsection are the following:

17 (1) To negotiate and seek to enter into an
18 agreement with the foreign country that commits the
19 country to reduce the rate of duty or reduce or
20 eliminate nontariff barriers on the good that is the
21 subject of the determination under subsection (a).

22 (2) To impose a rate of duty on imports of the
23 good that is equal to—

24 (A) the rate of duty imposed by the foreign
25 country with respect to the good, in the case of

1 a determination described in subsection (a)(1);
2 or

3 (B) the effective rate of duty of the non-
4 tariff barriers applied by the foreign country
5 with respect to the good, alone or in combina-
6 tion with any tariffs imposed by that country
7 on that good, in the case of a determination de-
8 scribed in subsection (a)(2).

9 (c) FACTORS.—In taking an action authorized under
10 subsection (b), the President shall consider the following
11 factors:

12 (1) The tariff classification of the good by the
13 United States and the tariff classification of the
14 good by the foreign country.

15 (2) The rate of duty applied by the United
16 States with respect to the good and the rate of duty
17 applied by the foreign country with respect to the
18 good.

19 (3) The physical characteristics of the good.

20 (4) The end uses and existence of a competitive
21 relationship between the good—

22 (A) as exported from the United States to
23 the foreign country; and

24 (B) as imported from the country to the
25 United States.

1 (5) The level of exports of the good by the
2 country to the United States and to other countries.

3 (6) In the case of a determination described in
4 subsection (a)(1), the extent to which the rate of
5 duty applied by the foreign country with respect to
6 the good is impeding or distorting trade.

7 (7) In the case of a determination described in
8 subsection (a)(2)—

9 (A) the extent of the nontariff barriers ap-
10 plied by the foreign country with respect to the
11 good and the extent of the nontariff barriers
12 applied by the United States with respect to the
13 good;

14 (B) the extent to which the nontariff bar-
15 riers applied by the country with respect to the
16 good, alone or in combination with any tariffs
17 imposed by that country on that good, are im-
18 peding or distorting trade;

19 (C) the identified purpose of the nontariff
20 barriers applied by the country with respect to
21 the good, if any, and the extent to which the
22 nontariff barriers are more restrictive than nec-
23 essary to meet that purpose; and

1 (D) the degree of transparency of the proc-
2 ess by which the country adopted the nontariff
3 barriers.

4 (8) Other factors, as the President determines
5 appropriate.

6 (d) ROLE OF USTR.—The United States Trade Rep-
7 resentative, in consultation with the Secretary of Treas-
8 ury, the Secretary of Commerce, and the heads of other
9 relevant Federal agencies, shall advise the President in de-
10 termining the effective rate of duty imposed by the non-
11 tariff barriers applied by a foreign country with respect
12 to a good, alone or in combination with any tariffs imposed
13 by that country on that good, in the case of a determina-
14 tion described in subsection (a)(2).

15 (e) LOWER RATE OF DUTY.—The President may im-
16 pose a rate of duty on imports of a good from a foreign
17 country that is lower than the rate of duty described in
18 subsection (b)(2)(A) or lower than the effective rate of
19 duty described in subsection (b)(2)(B), as the case may
20 be, if the President determines that application of such
21 lower rate of duty is necessary and appropriate.

22 (f) HIGHER RATE OF DUTY.—If the President im-
23 poses a rate of duty on imports of a good from a foreign
24 country under subsection (b)(2), and the country further
25 increases its rate of duty on imports of the good from the

1 United States, the President may further increase the rate
 2 of duty on imports of the good from the country to a rate
 3 that is equal to the rate of duty applied by that country.

4 (g) TERMINATION.—The President shall terminate
 5 the imposition of any increase in the rate of duty on im-
 6 ports of a good from a foreign country under subsection
 7 (b)(2) effective on the date on which the President deter-
 8 mines that—

9 (1) the foreign country is no longer—

10 (A) imposing a rate of duty with respect to
 11 the good, as described in subsection (a)(1); or

12 (B) applying nontariff barriers with re-
 13 spect to the good, as described in subsection
 14 (a)(2); or

15 (2) continued imposition of the increased rate
 16 of duty on imports of the good from the foreign
 17 country is not in the economic or public interest of
 18 the United States.

19 **SEC. 4. NOTICE AND CONSULTATION.**

20 (a) IN GENERAL.—Before taking any action author-
 21 ized under section 3(b)(1), the President shall provide no-
 22 tice to and consult with the Committee on Ways and
 23 Means of the House of Representatives and the Committee
 24 on Finance of the Senate regarding the proposed action.

1 (b) NOTICE.—Before taking any action authorized
 2 under section 3(b)(2), the President shall—

3 (1) not less than 45 days before the date on
 4 which imposition of an increased rate of duty on im-
 5 ports of a good from a foreign country is to take ef-
 6 fect, publish notice in the Federal Register of, and
 7 allow for public comment on, the proposed imposi-
 8 tion and level of such increased rate of duty; and

9 (2) seek advice regarding the proposed action
 10 from the advisory committees established under sec-
 11 tion 135 of the Trade Act of 1974 (19 U.S.C.
 12 2155).

13 (c) ADDITIONAL NOTICE.—The President shall
 14 promptly publish in the Federal Register notice of any ac-
 15 tion taken pursuant to section 3(f) or 3(g).

16 **SEC. 5. CONGRESSIONAL DISAPPROVAL OF PRESIDENTIAL**
 17 **IMPOSITION OF RATES OF DUTY ON IMPORTS**
 18 **OF GOODS FROM FOREIGN COUNTRIES**
 19 **UNDER SECTION 3(b)(2); DISAPPROVAL RESO-**
 20 **LUTION.**

21 (a) IN GENERAL.—An action taken by the President
 22 under section 3(b)(2) to impose a rate of duty on imports
 23 of a good from a foreign country shall cease to have force
 24 and effect upon the enactment of a disapproval resolution,
 25 provided for in subsection (b), relating to that action.

1 (b) CONGRESSIONAL RULEMAKING POWER; DIS-
2 APPROVAL RESOLUTION.—

3 (1) IN GENERAL.—This section is enacted by
4 the Congress—

5 (A) as an exercise of the rulemaking power
6 of the House of Representatives and the Sen-
7 ate, respectively, and as such is deemed a part
8 of the rules of each House, respectively, but ap-
9 plicable only with respect to the procedures to
10 be followed in that House in the case of dis-
11 approval resolutions and such procedures super-
12 sede other rules only to the extent that they are
13 inconsistent therewith; and

14 (B) with the full recognition of the con-
15 stitutional right of either House to change the
16 rules (so far as relating to the procedure of that
17 House) at any time, in the same manner, and
18 to the same extent as any other rule of that
19 House.

20 (2) DISAPPROVAL RESOLUTION.—For purposes
21 of this section, the term “disapproval resolution”
22 means only a joint resolution of either House of
23 Congress the matter after the resolving clause of
24 which is as follows: “That the Congress disapproves
25 the action taken under section 3(b)(2) of the United

1 States Reciprocal Trade Act with respect to the im-
2 position of a rate of duty on imports of ____ from
3 ____ under such section 3(b)(2).”, the first blank
4 space being filled with a description of the good with
5 respect to which the duty is imposed under section
6 3(b)(2) and the second blank being filled with the
7 name of the foreign country from which the good is
8 imported into the United States.

9 (3) CONSIDERATION.—

10 (A) INTRODUCTION.—All disapproval reso-
11 lutions introduced in the House of Representa-
12 tives shall be referred to the Committee on
13 Ways and Means and all disapproval resolutions
14 introduced in the Senate shall be referred to the
15 Committee on Finance.

16 (B) AMENDMENTS PROHIBITED; MOTIONS
17 TO SUSPEND APPLICATION OF THIS SUBPARA-
18 GRAPH PROHIBITED.—No amendment to a dis-
19 approval resolution shall be in order in either
20 the House of Representatives or the Senate,
21 and no motion to suspend the application of
22 this subparagraph shall be in order in either
23 House nor shall it be in order in either House
24 for the Presiding Officer to entertain a request

1 to suspend the application of this subparagraph
2 by unanimous consent.

3 (C) MAJORITY REQUIRED FOR ADOPT-
4 TION.—A disapproval resolution considered
5 under this subsection shall require an affirma-
6 tive vote of two-thirds of the Members, duly
7 chosen and sworn, for adoption.

8 **SEC. 6. REPORT.**

9 Before entering into an agreement with a foreign
10 country under section 3(b)(1), the United States Trade
11 Representative shall submit to the appropriate congres-
12 sional committees and leadership a report that describes—

13 (1) the implementation of the agreement, in-
14 cluding how it is consistent with and does not mate-
15 rially differ from or otherwise affect Federal or
16 State laws or regulations;

17 (2) the impact on the competitiveness of United
18 States businesses; and

19 (3) the impact on United States consumers.

1 **SEC. 7. SUNSET OF PRESIDENTIAL IMPOSITION OF RATES**
2 **OF DUTY ON IMPORTS OF GOODS FROM FOR-**
3 **EIGN COUNTRIES UNDER SECTION 3(b)(2) BY**
4 **DISAPPROVAL RESOLUTION.**

5 (a) IN GENERAL.—The authority of the President to
6 take an action under section 3(b)(2) to impose a rate of
7 duty on imports of a good from a foreign country—

8 (1) shall be effective for the period ending on
9 the date that is three years after the date of the en-
10 actment of this Act; and

11 (2) shall be extended for an additional period of
12 three years if (and only if)—

13 (A) the President requests such extension
14 under subsection (b); and

15 (B) a disapproval resolution is not enacted
16 into law as provided for under subsection (c).

17 (b) REPORT TO CONGRESS.—If the President is of
18 the opinion that the authority of the President to take an
19 action under section 3(b)(2) to impose a rate of duty on
20 imports of a good from a foreign country should be ex-
21 tended for the additional period described in subsection
22 (a)(2), the President shall submit to Congress, not later
23 than the date that is three months before the end of the
24 period described in subsection (a)(1), a written report that
25 contains a request for such extension, together with a de-
26 scription of all actions taken under section 3(b)(2) to date.

1 (c) DISAPPROVAL RESOLUTION.—

2 (1) CONGRESSIONAL RULEMAKING POWER.—

3 This section is enacted by the Congress—

4 (A) as an exercise of the rulemaking power
5 of the House of Representatives and the Sen-
6 ate, respectively, and as such is deemed a part
7 of the rules of each House, respectively, but ap-
8 plicable only with respect to the procedures to
9 be followed in that House in the case of dis-
10 approval resolutions and such procedures super-
11 sede other rules only to the extent that they are
12 inconsistent therewith; and

13 (B) with the full recognition of the con-
14 stitutional right of either House to change the
15 rules (so far as relating to the procedure of that
16 House) at any time, in the same manner, and
17 to the same extent as any other rule of that
18 House.

19 (2) DISAPPROVAL RESOLUTION.—For purposes
20 of subsection (a), the term “disapproval resolution”
21 means only a joint resolution of either House of
22 Congress the matter after the resolving clause of
23 which is as follows: “That the Congress disapproves
24 the request of the President for the extension, under
25 section 7(a)(2)(A) of the United States Reciprocal

1 Trade Act, of the authority of the President to take
2 an action under section 3(b)(2) of such Act to im-
3 pose a rate of duty on imports of a good from a for-
4 eign country after the period ending on the date that
5 is three years after the date of the enactment of
6 such Act.”.

7 (3) INTRODUCTION; REFERRAL.—A disapproval
8 resolution—

9 (A) may be introduced in either House of
10 Congress by any member of such House; and

11 (B) shall be referred, in the House of Rep-
12 resentatives, to the Committee on Ways and
13 Means and, in addition, to the Committee on
14 Rules.

15 (4) FLOOR CONSIDERATION.—The provisions of
16 subsections (d) and (e) of section 152 of the Trade
17 Act of 1974 (19 U.S.C. 2192) (relating to the floor
18 consideration of certain resolutions in the House and
19 Senate) apply to a disapproval resolution.

20 (5) LIMITATIONS ON CONSIDERATION.—It is
21 not in order for—

22 (A) the House of Representatives to con-
23 sider any disapproval resolution not reported by
24 the Committee on Ways and Means and, in ad-
25 dition, by the Committee on Rules;

1 (B) the Senate to consider any disapproval
2 resolution not reported by the Committee on Fi-
3 nance; or

4 (C) either House of Congress to consider a
5 disapproval resolution after the date that is
6 three years after the date of the enactment of
7 this Act.

8 (d) RULES OF CONSTRUCTION.—

9 (1) IN GENERAL.—An action authorized under
10 section 3(b)(2) to impose a rate of duty on imports
11 of a good from a foreign country that is taken before
12 the end of the period described in subsection (a)(1)
13 or the end of the period described in subsection
14 (a)(2) shall remain in effect after the end of such re-
15 spective period.

16 (2) ADDITIONAL AUTHORITIES.—The President
17 may exercise the authorities of subsections (e), (f),
18 and (g) of section 3 with respect to an action de-
19 scribed in paragraph (1) after the end of the period
20 described in such paragraph that is applicable to
21 such action.

22 **SEC. 8. DEFINITIONS.**

23 In this Act:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES AND LEADERSHIP.—The term “appropriate
3 congressional committees and leadership” means—

4 (A) the Committee on Ways and Means of
5 the House of Representatives and the Com-
6 mittee on Finance of the Senate; and

7 (B) the Speaker of the House of Rep-
8 resentatives, the minority leader of the House
9 of Representatives, the majority leader of the
10 Senate, and the minority leader of the Senate.

11 (2) NONTARIFF BARRIER.—The term “nontariff
12 barrier” includes any government-imposed measure
13 or policy, other than a customs duty, that restricts,
14 prevents, or impedes international trade in goods, in-
15 cluding import policies, sanitary and phytosanitary
16 measures, technical barriers to trade, government
17 procurement, export subsidies, lack of intellectual
18 property protection, digital trade barriers, and gov-
19 ernment-tolerated anticompetitive conduct of state-
20 owned or private firms.

21 (3) RATE OF DUTY.—The term “rate of duty”
22 means the rate of customs duty applied on imports
23 of a good, but does not include an antidumping or

- 1 countervailing duty or a duty applied under a pref-
- 2 erential tariff arrangement.

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