

115TH CONGRESS  
2D SESSION

# H. R. 5909

To enhance reciprocal market access for United States domestic producers in the negotiating process of bilateral, regional, and multilateral trade agreements.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2018

Ms. DELAURO introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To enhance reciprocal market access for United States domestic producers in the negotiating process of bilateral, regional, and multilateral trade agreements.

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 “Reciprocal Market Ac-  
5 cess Act of 2018”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) One of the fundamental tenets of the World  
9 Trade Organization (WTO) is reciprocal market ac-

1       cess. This principle is underscored in the Marrakesh  
2       Agreement Establishing the World Trade Organiza-  
3       tion which called for “entering into reciprocal and  
4       mutually advantageous arrangements directed to the  
5       substantial reduction of tariffs and other barriers to  
6       trade and to the elimination of discriminatory treat-  
7       ment in international trade relations”.

8               (2) The American people have a right to expect  
9       that the promises that trade negotiators and policy  
10      makers offer in terms of the market access opportu-  
11      nities that will be available to United States busi-  
12      nesses and their employees if trade agreements are  
13      reached, will, in fact, be realized. A results-oriented  
14      approach must form the basis of future trade nego-  
15      tiations that includes verification procedures to en-  
16      sure that the promised market access is achieved  
17      and that reciprocal trade benefits result.

18              (3) With each subsequent round of bilateral, re-  
19      gional, and multilateral trade negotiations, tariffs  
20      have been significantly reduced or eliminated for  
21      many manufactured goods, leaving nontariff barriers  
22      as the most pervasive, significant, and challenging  
23      barriers to United States exports and market oppor-  
24      tunities.

1           (4) The United States market is widely recog-  
2           nized as one of the most open markets in the world.  
3           Average United States tariff rates are very low and  
4           the United States has limited, if any, nontariff bar-  
5           riers.

6           (5) Often the only leverage the United States  
7           has to obtain the reduction or elimination of non-  
8           tariff barriers imposed by foreign countries is to ne-  
9           gotiate the amount of tariffs the United States im-  
10          poses on imports from those foreign countries.

11          (6) Under the current negotiating process, ne-  
12          gotiations to reduce or eliminate tariff barriers and  
13          nontariff barriers are separate and self-contained,  
14          meaning that tradeoffs are tariff-for-tariff and non-  
15          tariff-for-nontariff. As a result, a tariff can be re-  
16          duced or eliminated without securing elimination of  
17          the real barrier or barriers that deny United States  
18          businesses access to a foreign market.

19          (b) PURPOSE.—The purpose of this Act is to require  
20          that United States trade negotiations achieve measurable  
21          results for United States businesses by ensuring that  
22          trade agreements result in expanded market access for  
23          United States exports and not solely the elimination of  
24          tariffs on goods imported into the United States.

1 **SEC. 3. LIMITATION ON AUTHORITY TO REDUCE OR ELIMI-**  
2 **NATE RATES OF DUTY PURSUANT TO CER-**  
3 **TAIN TRADE AGREEMENTS.**

4 (a) LIMITATION.—Notwithstanding any other provi-  
5 sion of law, on or after the date of the enactment of this  
6 Act, the President may not agree to a modification of an  
7 existing duty that would reduce or eliminate the bound  
8 or applied rate of such duty on any product in order to  
9 carry out a trade agreement entered into between the  
10 United States and a foreign country until the President  
11 transmits to Congress a certification described in sub-  
12 section (b).

13 (b) CERTIFICATION.—A certification referred to in  
14 subsection (a) is a certification by the President that—

15 (1) the United States has obtained the reduc-  
16 tion or elimination of tariff and nontariff barriers  
17 and policies and practices of the government of a  
18 foreign country described in subsection (a) with re-  
19 spect to United States exports of any product identi-  
20 fied by United States domestic producers as having  
21 the same physical characteristics and uses as the  
22 product for which a modification of an existing duty  
23 is sought by the President as described in subsection  
24 (a); and

25 (2) a violation of any provision of the trade  
26 agreement described in subsection (a) relating to the

1 matters described in paragraph (1) is immediately  
2 enforceable in accordance with the provisions of sec-  
3 tion 4.

4 **SEC. 4. ENFORCEMENT PROVISIONS.**

5 (a) **WITHDRAWAL OF TARIFF CONCESSIONS.**—If the  
6 President does agree to a modification described in section  
7 3(a), and the United States Trade Representative deter-  
8 mines pursuant to subsection (c) that—

9 (1) a tariff or nontariff barrier or policy or  
10 practice of the government of a foreign country de-  
11 scribed in section 3(a) has not been reduced or  
12 eliminated; or

13 (2) a tariff or nontariff barrier or policy or  
14 practice of such government has been imposed or  
15 discovered,

16 the United States Trade Representative shall withdraw  
17 the modification until such time as the President trans-  
18 mits to Congress a certification described in section  
19 3(b)(1).

20 (b) **INVESTIGATION.**—

21 (1) **IN GENERAL.**—The United States Trade  
22 Representative, in coordination with the Department  
23 of Labor, shall initiate an investigation if an inter-  
24 ested party files a petition with the United States  
25 Trade Representative which alleges the elements

1 necessary for the withdrawal of the modification of  
2 an existing duty under subsection (a), and which is  
3 accompanied by information reasonably available to  
4 the petitioner supporting such allegations.

5 (2) INTERESTED PARTY DEFINED.—For pur-  
6 poses of paragraph (1), the term “interested party”  
7 means—

8 (A) a manufacturer, producer, or whole-  
9 saler in the United States of a domestic product  
10 that has the same physical characteristics and  
11 uses as the product for which a modification of  
12 an existing duty is sought;

13 (B) a certified union or recognized union  
14 or group of workers engaged in the manufac-  
15 ture, production, or wholesale in the United  
16 States of a domestic product that has the same  
17 physical characteristics and uses as the product  
18 for which a modification of an existing duty is  
19 sought;

20 (C) a trade or business association a ma-  
21 jority of whose members manufacture, produce,  
22 or wholesale in the United States a domestic  
23 product that has the same physical characteris-  
24 tics and uses as the product for which a modi-  
25 fication of an existing duty is sought; or

1 (D) a member of the Committee on Ways  
2 and Means of the House of Representatives or  
3 a member of the Committee on Finance of the  
4 Senate.

5 (c) DETERMINATION BY USTR.—Not later than 45  
6 days after the date on which a petition is filed under sub-  
7 section (b), the United States Trade Representative  
8 shall—

9 (1) determine whether the petition alleges the  
10 elements necessary for the withdrawal of the modi-  
11 fication of an existing duty under subsection (a);  
12 and

13 (2) notify the petitioner of the determination  
14 under paragraph (1) and the reasons for the deter-  
15 mination.

16 **SEC. 5. MARKET ACCESS ASSESSMENT BY UNITED STATES**  
17 **INTERNATIONAL TRADE COMMISSION.**

18 (a) IN GENERAL.—With respect to any proposed  
19 trade agreement in which the President seeks a modifica-  
20 tion of an existing duty that would reduce or eliminate  
21 the bound or applied rate of such duty on any product  
22 in order to carry out a trade agreement entered into be-  
23 tween the United States and a foreign country, the United  
24 States International Trade Commission shall initiate an  
25 investigation and report as to the possible market access

1 opportunities of the modification or elimination of foreign  
2 tariff and nontariff measures for United States industries  
3 producing and exporting similar products. In preparing its  
4 report, the International Trade Commission shall identify  
5 the tariff and nontariff measures for such products and  
6 the expected opportunities for United States exports.

7 (b) CONSULTATION.—In preparing its report under  
8 subsection (a), the United States International Trade  
9 Commission shall, as appropriate, seek to obtain relevant  
10 information from domestic producers of similar products,  
11 industry associations, government representatives, and  
12 other interested organizations.

13 (c) REPORT.—

14 (1) IN GENERAL.—Not later than 240 days  
15 after the President notifies Congress of his intent to  
16 enter into negotiations for a proposed trade agree-  
17 ment described in subsection (a), or not later than  
18 45 days after the President notifies Congress of his  
19 intent to enter into a trade agreement, whichever oc-  
20 curs first, the United States International Trade  
21 Commission shall submit to the United States Trade  
22 Representative, the Secretary of Commerce, and  
23 Congress the report required under subsection (a).



1           (2) FORM.—Such report shall be submitted in  
2           unclassified form, but may contain a classified  
3           annex, if necessary.

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