

112TH CONGRESS  
1ST SESSION

# H. R. 1749

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 5, 2011

Ms. SLAUGHTER (for herself, Mr. DEFazio, Mr. MICHAUD, Ms. MOORE, Mr. JONES, Mr. DINGELL, Mr. HIGGINS, Mr. LIPINSKI, Mr. TONKO, Ms. SUTTON, Mr. HINCHEY, Mr. KILDEE, Mr. JOHNSON of Georgia, Mr. HASTINGS of Florida, Mr. KUCINICH, Mr. FILNER, Ms. KAPTUR, Mr. MCINTYRE, Mr. KISSELL, Ms. DELAURO, Mr. RYAN of Ohio, Ms. CLARKE of New York, Mr. GARAMENDI, Mr. LEWIS of Georgia, Ms. PINGREE of Maine, Mr. JACKSON of Illinois, Mr. BRALEY of Iowa, Mr. CRITZ, Mr. GRIJALVA, Mr. CLAY, Mr. GENE GREEN of Texas, Mr. ISRAEL, Mr. OLVER, Mr. GEORGE MILLER of California, Ms. WOOLSEY, and Mr. CAPUANO) 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 2011”.

1 **SEC. 2. FINDINGS AND PURPOSE.**

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

3 (1) One of the fundamental tenets of the World  
4 Trade Organization (WTO) is reciprocal market ac-  
5 cess. This principle is underscored in the Marrakesh  
6 Agreement Establishing the World Trade Organiza-  
7 tion which called for “entering into reciprocal and  
8 mutually advantageous arrangements directed to the  
9 substantial reduction of tariffs and other barriers to  
10 trade and to the elimination of discriminatory treat-  
11 ment in international trade relations”.

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

22 (3) With each subsequent round of bilateral, re-  
23 gional, and multilateral trade negotiations, tariffs  
24 have been significantly reduced or eliminated for  
25 many manufactured goods, leaving nontariff barriers  
26 as the most pervasive, significant, and challenging

1 barriers to United States exports and market oppor-  
2 tunities.

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

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

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

21 (b) PURPOSE.—The purpose of this Act is to require  
22 that United States trade negotiations achieve measurable  
23 results for United States businesses by ensuring that  
24 trade agreements result in expanded market access for

1 United States exports and not solely the elimination of  
2 tariffs on goods imported into the United States.

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

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

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

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

1 is sought by the President as described in subsection  
2 (a); and

3 (2) a violation of any provision of the trade  
4 agreement described in subsection (a) relating to the  
5 matters described in paragraph (1) is immediately  
6 enforceable in accordance with the provisions of sec-  
7 tion 4.

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

9 (a) WITHDRAWAL OF TARIFF CONCESSIONS.—If the  
10 President does agree to a modification described in section  
11 3(a), and the United States Trade Representative deter-  
12 mines pursuant to subsection (c) that—

13 (1) a tariff or nontariff barrier or policy or  
14 practice of the government of a foreign country de-  
15 scribed in section 3(a) has not been reduced or  
16 eliminated, or

17 (2) a tariff or nontariff barrier or policy or  
18 practice of such government has been imposed or  
19 discovered,

20 the modification shall be withdrawn until such time as the  
21 United States Trade Representative submits to Congress  
22 a certification described in section 3(b)(1).

23 (b) INVESTIGATION.—

24 (1) IN GENERAL.—The United States Trade  
25 Representative shall initiate an investigation if an

1 interested party files a petition with the United  
2 States Trade Representative which alleges the ele-  
3 ments necessary for the withdrawal of the modifica-  
4 tion of an existing duty under subsection (a), and  
5 which is accompanied by information reasonably  
6 available to the petitioner supporting such allega-  
7 tions.

8 (2) INTERESTED PARTY DEFINED.—For pur-  
9 poses of paragraph (1), the term “interested party”  
10 means—

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

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

23 (C) a trade or business association a ma-  
24 jority of whose members manufacture, produce,  
25 or wholesale in the United States a domestic

1 product that has the same physical characteris-  
2 tics and uses as the product for which a modi-  
3 fication of an existing duty is sought; and

4 (D) a member of the Committee on Ways  
5 and Means of the House of Representatives or  
6 a member of the Committee on Finance of the  
7 Senate.

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

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

16 (2) notify the petitioner of the determination  
17 under paragraph (1) and the reasons for the deter-  
18 mination.

19 **SEC. 5. MARKET ACCESS ASSESSMENT BY INTERNATIONAL**  
20 **TRADE COMMISSION.**

21 (a) IN GENERAL.—The International Trade Commis-  
22 sion shall conduct an assessment of the impact of each  
23 proposed trade agreement between the United States and  
24 a foreign country on tariff and nontariff barriers and poli-  
25 cies and practices of the government of the foreign country

1 with respect to United States exports of any product iden-  
2 tified by United States domestic producers as having the  
3 same physical characteristics and uses as the product for  
4 which a modification of an existing duty is sought by the  
5 President as described in section 4(a).

6 (b) IDENTIFICATION.—In conducting the assessment  
7 under subsection (a), the International Trade Commission  
8 shall identify the tariff and nontariff barriers and policies  
9 and practices for such products that exist in the foreign  
10 country and the expected opportunities for exports from  
11 the United States to the foreign country if existing tariff  
12 and nontariff barriers and policies and practices are elimi-  
13 nated.

14 (c) CONSULTATION.—In conducting the assessment  
15 under subsection (a), the International Trade Commission  
16 shall, as appropriate, consult with and seek to obtain rel-  
17 evant documentation from United States domestic pro-  
18 ducers of products having the same physical characteris-  
19 ties and uses as the product for which a modification of  
20 an existing duty is sought by the President as described  
21 in section 4(a).

22 (d) REPORT.—Not later than 45 days before the date  
23 on which negotiations for a proposed trade agreement de-  
24 scribed in subsection (a) are initiated, the International  
25 Trade Commission shall submit to the United States



1 Trade Representative, the Secretary of Commerce, and  
2 Congress a report on the proposed trade agreement that  
3 contains the assessment under subsection (a) conducted  
4 with respect to such proposed trade agreement. The report  
5 shall be submitted in unclassified form, but may contain  
6 a classified annex if necessary.

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