

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3819

To terminate the North American Free Trade Agreement as it applies to Canada and the United States-Canada Free-Trade Agreement and to impose additional duties on grain imported from Canada, until the United States and Canada renegotiate the provisions of the Agreements regarding the importation of Canadian grain.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 8, 1994

Mr. POMEROY (for himself, Mr. WILLIAMS, and Mr. PETERSON of Minnesota) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To terminate the North American Free Trade Agreement as it applies to Canada and the United States-Canada Free-Trade Agreement and to impose additional duties on grain imported from Canada, until the United States and Canada renegotiate the provisions of the Agreements regarding the importation of Canadian grain.

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-Canada  
5 Grain Trade Settlement Act of 1994”.

1 **SEC. 2. FINDINGS.**

2 The Congress makes the following findings:

3 (1) As a result of unfair and incomplete provi-  
4 sions in the United States-Canada Free-Trade  
5 Agreement (hereafter referred to as the “CFTA”) and the North American Free Trade Agreement  
6 (hereafter referred to as the “NAFTA”) affecting  
7 exports of Canadian grain to the United States—

8 (A) Canadian exports of durum wheat,  
9 spring wheat, and barley have increased beyond  
10 the level that such exports can be absorbed into  
11 the United States market;

12 (B) these exports have depressed domestic  
13 grain prices, causing severe financial losses to  
14 American farmers and increasing the costs and  
15 difficulties of implementing domestic farmer  
16 support programs; and

17 (C) Canadian grain exports continue to in-  
18 crease without bounds, increasing the damage  
19 to United States farmers each year.

20 (2) The Congress approved the CFTA subject  
21 to—

22 (A) the statement in the Statement of Ad-  
23 ministrative Action that the United States  
24 would “pursue consultations with Canada re-  
25 garding the price setting policy of the CWB  
26

1 (Canadian Wheat Board) as it affects goods ex-  
2 ported to the United States . . . directed to-  
3 ward establishing a method to determine the  
4 price at which the CWB is selling agricultural  
5 goods to the United States and the CWB's ac-  
6 quisition price for those goods"; and

7 (B) the provision of the implementing leg-  
8 islation requiring that "the President will enter  
9 into immediate consultation with the Govern-  
10 ment of Canada to obtain the exclusion from  
11 the transport rates established under Canada's  
12 Western Grain Transportation Act of agricul-  
13 tural goods that originate in Canada and are  
14 shipped via east coast ports for consumption in  
15 the United States,"

16 yet to date there has been no resolution of these  
17 consultations.

18 (3) United States trade negotiators agreed not  
19 to reexamine the CFTA while negotiating the  
20 NAFTA based on the assumption that the Uruguay  
21 Round talks of the General Agreement on Tariffs  
22 and Trade would address the subsidy and dispute  
23 resolution concerns and would be completed before  
24 the enactment of the NAFTA.

1           (4) The failure of the United States success-  
2 fully to pursue the consultations described in para-  
3 graph (2) led to a flawed binational panel decision  
4 that renders meaningless the plain language of Arti-  
5 cle 701(3) of the CFTA (which was incorporated by  
6 reference in the NAFTA), which states that “Nei-  
7 ther Party, including any public entity that it estab-  
8 lishes or maintains, shall sell agricultural goods for  
9 export to the territory of the other Party at a price  
10 below the acquisition price of the goods plus any  
11 storage, handling or other cost incurred by it with  
12 respect to those goods.”.

13           (5) Imports of wheat and barley have increased  
14 significantly as a result of substantial changes in  
15 Canada’s support programs. Some of the changes  
16 were made with declared intent to increase imports  
17 to the United States. The increases in imports con-  
18 stitutes grounds under Article 705.5 of the CFTA  
19 for use of import restrictions by the United States.

20 **SEC. 3. TERMINATION OF AGREEMENTS AND IMPOSITION**  
21 **OF ADDITIONAL DUTIES.**

22 (a) IN GENERAL.—

23           (1) TERMINATION OF NAFTA AND CFTA.—Not-  
24 withstanding any other provision of law, the Presi-  
25 dent shall provide written notification to the Govern-

1       ment of Canada of the intent of the United States  
2       to terminate the CFTA and the NAFTA, as such  
3       agreement applies to Canada, unless the President  
4       provides the Congress with a certification described  
5       in subsection (c). Such notification shall be given not  
6       later than the date that is 6 months after the date  
7       of the enactment of this Act and shall provide that  
8       the agreements shall terminate not later than 1 year  
9       after the date the enactment of this Act in accord-  
10      ance with the terms and conditions of the respective  
11      agreements.

12           (2) IMPOSITION OF DUTY.—Notwithstanding  
13      any other provision of law, the President shall imme-  
14      diately impose a duty at the rate of 50 percent ad  
15      valorem or the specific rate equivalent to articles im-  
16      ported from Canada described in the following head-  
17      ings of the Harmonized Tariff Schedule of the  
18      United States:

19           (A) heading 1001.10.00 (relating to durum  
20      wheat),

21           (B) heading 1001.90.10 (relating to seed  
22      wheat),

23           (C) heading 1001.90.20 (relating to other  
24      wheat),

1 (D) heading 1003.00.20 (relating to malt-  
2 ing barley), and

3 (E) heading 1003.00.40 (relating to other  
4 barley).

5 (b) NEGOTIATIONS.—The President shall imme-  
6 diately pursue negotiations with the Government of  
7 Canada to—

8 (1) establish a method for determining the sale  
9 price of Canadian grain exports to the United States  
10 and the Canadian Wheat Board’s acquisition price  
11 for such grain;

12 (2) establish procedures for obtaining the data  
13 necessary to implement the method described in  
14 paragraph (1);

15 (3) eliminate all transportation subsidies on ag-  
16 ricultural goods that originate in Canada and are  
17 shipped for consumption in the United States; and

18 (4) clarify the meaning of the term “acquisition  
19 price” in Article 701(3) of the CFTA (and any other  
20 provision accompanying such agreement or the  
21 NAFTA) so that such term includes—

22 (A) the value of any transportation subsidy  
23 applied to grain entering the United States;

24 (B) all direct payments to producers made  
25 by the Canadian Wheat Board or any govern-

1           ment agency for grain entering the United  
2           States; and

3           (C) any other payments or subsidy in-  
4           curred by the Canadian Wheat Board, any gov-  
5           ernment agency, or any private interest in the  
6           acquisition, handling, storage, and transpor-  
7           tation of the grain.

8           (c) CERTIFICATION BY THE PRESIDENT.—At such  
9           time as the President certifies to the Congress that the  
10          Government of Canada has entered into an agreement  
11          with the United States with respect to the requirements  
12          described in subsection (b), the President may terminate  
13          the duties imposed under subsection (a)(1) and take ac-  
14          tion to reinstate the CFTA and the NAFTA with respect  
15          to Canada. An agreement entered into under this Act shall  
16          supersede the corresponding provisions of the CFTA and  
17          the NAFTA and shall be incorporated in and become part  
18          of such agreements as reinstated.

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