

**URGENTE**

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# H. R. 1052

To authorize negotiations directed toward opening foreign markets to United States exports of high technology products, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 1983

Mr. SHANNON (for himself, Mr. GIBBONS, Mr. LUNDINE, Mr. GUARINI, Mr. BEILENSON, Mr. EDWARDS of California, Mr. DYMALLY, Mr. FAZIO, Mr. MATSUI, Mr. LANTOS, Mr. MINETA, Mr. BOLAND, Mr. NELSON of Florida, Mr. MOAKLEY, and Mr. PATTERSON) introduced the following bill, which was referred jointly to the Committees on Foreign Affairs and Ways and Means

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## A BILL

To authorize negotiations directed toward opening foreign markets to United States exports of high technology products, 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 "High Technology Trade  
5 Act of 1983".

6 SEC. 2. FINDINGS AND PURPOSE.

7 (a) FINDINGS.—The Congress finds that—

1           (1) the growth and maintenance of an open world  
2 economy for international trade in goods, services, and  
3 information, and for investment is in the national inter-  
4 est and in the interest of the United States high tech-  
5 nology industries;

6           (2) international competition in high technology  
7 products is increasingly characterized by a high degree  
8 of Government intervention through central planning,  
9 joint establishment of industrial objectives, subsidiza-  
10 tion, anticompetitive practices tolerated or fostered by  
11 Government policy, denial of national treatment, non-  
12 tariff and tariff barriers, investment performance re-  
13 quirements, access to preferential financing, and spon-  
14 sorship of limited-access joint research projects;

15           (3) the strength, vitality, and innovativeness of  
16 the United States high technology industries are essen-  
17 tial to the national security and the national defense,  
18 the future development of the United States economy,  
19 and the competitiveness of United States industry in  
20 international trade;

21           (4) domestic policies play a critical role in deter-  
22 mining the international competitiveness of United  
23 States high technology companies, and therefore the  
24 United States should take into account the importance  
25 of providing a favorable domestic economic environ-

1 ment for United States high technology industries in  
2 order to preserve United States international competi-  
3 tiveness; and

4 (5) the pursuit of joint scientific cooperation in  
5 areas of mutual interest between companies of the  
6 United States and companies of the trading partners of  
7 the United States, through such measures as financial  
8 participation and technical and personnel exchanges, is  
9 in the national interest, and access by all participants  
10 to the results of any such cooperative efforts should not  
11 be impaired.

12 (b) PURPOSES.—The purposes of this Act are—

13 (1) to obtain and preserve the maximum openness  
14 with respect to international trade in high technology  
15 goods, services, and information, and for investment in  
16 high technology industries; and

17 (2) to strengthen the international trading system  
18 as embodied in the General Agreement on Tariffs and  
19 Trade and related agreements.

20 SEC. 3. NEGOTIATING MANDATE.

21 (a) PRESIDENTIAL AUTHORITY.—The President is au-  
22 thorized to enter into such bilateral or multilateral agree-  
23 ments as may be necessary or appropriate to achieve the pur-  
24 poses of this Act.

1 (b) AGREEMENTS.—Agreements under this Act may in-  
2 clude but need not be limited to—

3 (1) a commitment that official policy of signatory  
4 countries will not discourage Government or private  
5 procurement of foreign high technology products, serv-  
6 ices or information;

7 (2) the reduction and elimination of all tariffs on,  
8 and other barriers to, imports of high technology prod-  
9 ucts, including, but not limited to—

10 (A) the acceleration of the full concession  
11 tariff rates on high technology products agreed to  
12 during the Tokyo Round of trade negotiations;  
13 and

14 (B) the elimination of any tariff which on the  
15 date of enactment of this Act is 5 percent ad va-  
16 lorem (or ad valorem equivalent) or less; and

17 (3) a commitment to provide national treatment.

18 (c) ACTIONS BY PRESIDENT TO CARRY OUT AGREE-  
19 MENTS.—In order to carry out any agreement concluded  
20 under this Act, the President is authorized with respect to  
21 products which he deems to be high technology products—

22 (1) to proclaim such modification or continuance  
23 of any existing duty, duty-free or excise treatment, or  
24 such additional duties, as he determines to be required  
25 or appropriate, pursuant to the procedures governing

1 tariff agreements in sections 131 through 135 of the  
2 Trade Act of 1974; and

3 (2) to utilize the procedures contained in sections  
4 102 and 151 of the Trade Act of 1974 (and corre-  
5 sponding provisions of law) in the event that changes  
6 in United States laws are required or appropriate.

7 (d) CHANGES IN LAW.—The President is authorized to  
8 include in any agreement concluded under this Act commit-  
9 ments to make changes in United States laws, regulations,  
10 and policies that are considered necessary and appropriate to  
11 ensure the continued competitiveness in open international  
12 markets of the United States high technology industries.  
13 Such changes shall be considered by Congress as provided in  
14 subsection (c)(2) of this section.

15 SEC. 4. ADDITIONAL ACTIONS TO OBTAIN OPENNESS OF FOR-  
16 EIGN MARKET ACCESS.

17 (a) DETERMINATIONS BY PRESIDENT REGARDING NA-  
18 TIONAL TREATMENT.—

19 (1) IN GENERAL.—In order to ensure that nation-  
20 al treatment is accorded by a key country to—

21 (A) United States high technology companies  
22 for sales in such country, and

23 (B) United States persons for investments in  
24 high technology industries in such country,

1 the President shall, on a continuing basis, determine  
2 whether such country is taking actions sufficient to  
3 provide national treatment in such country for United  
4 States exports of high technology products and United  
5 States investments in high technology industries.

6 (2) BASIS OF DETERMINATIONS.—The President  
7 shall base the determinations under paragraph (1) on  
8 such product categories as are deemed appropriate in  
9 accordance with the procedures established under such  
10 paragraph.

11 (b) ACTIONS INVOLVING NEGATIVE DETERMINA-  
12 TIONS.—If the President determines under subsection (a)  
13 that a key country is not providing national treatment, the  
14 President shall promptly enter into consultations with such  
15 country with a view to establishing national treatment in  
16 such country and achieving the purposes of this Act. If such  
17 consultations do not provide the means to obtain this objec-  
18 tive, the President shall promptly consider taking such ac-  
19 tions within his power as he deems necessary or appropriate,  
20 under trade agreements to which the United States is a party  
21 and under provisions of United States law.

22 SEC. 5. EFFECTS OF FOREIGN INDUSTRIAL POLICY.

23 (a) REPORT BY SECRETARY OF COMMERCE.—The  
24 Secretary of Commerce, in consultation with the High Tech-  
25 nology Industry Advisory Committee established under sec-

1 tion 6(c), shall analyze and report annually to the Con-  
2 gress—

3 (1) the extent to which any key country utilizes  
4 industrial policies or measures which significantly dis-  
5 tort international trade in goods, services or informa-  
6 tion, or investment flows, and which have or may have  
7 substantial adverse effects on any United States high  
8 technology industry; and

9 (2) the steps which the President is taking or pro-  
10 poses to take domestically and internationally to  
11 remedy any adverse effects determined under para-  
12 graph (1), including any adverse effect arising out of  
13 any action which provides a subsidy with respect to ar-  
14 ticles imported into the United States or the sale of  
15 such articles at less than fair value in the United  
16 States market.

17 (b) SCOPE OF ANALYSIS.—The analysis under subsec-  
18 tion (a) shall include an analysis of—

19 (1) any foreign government industrial policies and  
20 measures—

21 (A) which are designed to enhance, or having  
22 the effect of enhancing, the international competi-  
23 tiveness of a foreign high technology industry, or

24 (B) which increase the rate of savings and  
25 investment, decrease consumption, channel private

1 or public financial or other resources to favored  
2 industries, or otherwise have the effect of increas-  
3 ing high technology exports, and

4 (C) which impair access to domestic markets;  
5 in the case of key commodity components (for ex-  
6 ample, random access memories (RAM's)), access  
7 shall be measured by reference to the extent to  
8 which sales in a major developed country of such  
9 products manufactured by United States compa-  
10 nies in the United States or abroad, taking into  
11 account the relative size of markets, are less than  
12 sales of those products in other international mar-  
13 kets where more open conditions of competition  
14 prevail, and such other factors as the United  
15 States Trade Representative and the Secretary of  
16 Commerce shall prescribe;

17 (2) specific foreign government industrial policies and  
18 measures such as—

19 (A) subsidies,

20 (B) toleration of cooperation among firms, or

21 (C) other anticompetitive activities, including  
22 allocation of product or geographic markets, ex-  
23 clusive nonstrategic joint research and develop-  
24 ment activities, interference with the outward



1 flow of nonstrategic technology, and other export-  
2 enhancing or import-inhibiting practices.

3 (c) OTHER PRESIDENTIAL ACTIONS.—If the President  
4 determines under subsection (a) that a foreign country has  
5 foreign industrial policies or measures which—

6 (1) significantly distort international trade or in-  
7 vestment to the detriment of any United States high  
8 technology industry; or

9 (2) may result in sales of articles at less than fair  
10 market value in the United States market or provision  
11 of a subsidy with respect to articles imported into the  
12 United States, and cause, or threaten to cause, materi-  
13 al injury to any United States high technology indus-  
14 try,

15 the President shall take whatever steps within his power that  
16 he deems are necessary or appropriate (including entering  
17 into agreements) to obtain the elimination of such practices or  
18 to offset their adverse effects.

19 (d) DEFINITIONS.—For purposes of this section, the  
20 terms “less than fair value”, “material injury”, and “subsi-  
21 dy” shall have the same meaning as they have under title  
22 VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.).

23 SEC. 6. MONITORING OF KEY COUNTRIES: REPORTS.

24 (a) ANALYSIS OF COMPETITIVE OPPORTUNITIES.—  
25 The Secretary of Commerce shall establish a mechanism to

1 analyze high technology trade and investment patterns in key  
2 countries to evaluate competitive opportunities offered in for-  
3 eign markets, and to further the objectives of this Act. The  
4 Secretary of Commerce shall prepare and publish annually a  
5 report to the President containing the results of his analysis  
6 which shall include, but not be limited to, information with  
7 respect to—

8 (1) United States exports and imports of high  
9 technology products to and from such key countries:

10 (2) direct and indirect investment flows;

11 (3) the conditions of competition in such countries,  
12 including the nature and extent of intercompany coop-  
13 eration and coordination in joint research and develop-  
14 ment, market allocation, and the development and im-  
15 plementation of industrial objectives; and

16 (4) the nature and extent of Government interven-  
17 tion, including the development of industrial objectives,  
18 the financing of research and development, the provid-  
19 ing of financial, tax and other incentives, and the di-  
20 recting of procurement.

21 (b) REPORT TO THE PRESIDENT—

22 (1) REPORT.—The United States Trade Repre-  
23 sentative and the Secretary of Commerce shall, after  
24 consultation with the advisory committee established  
25 under subsection (c), report annually to the President

1 with respect to measures enumerated in the report sub-  
2 mitted under subsection (a)—

3 (A) which they consider to be violations of  
4 United States international agreements, or

5 (B) which are unjustifiable, unreasonable, or  
6 discriminatory, and a burden or restriction on  
7 United States high technology products, services,  
8 or investments.

9 (2) ACTION BY THE PRESIDENT.—The President  
10 shall consider what action may be taken under the  
11 laws of the United States and trade agreements to  
12 obtain the reduction or elimination of such measures.

13 (c) ADVISORY COMMITTEE.—The Secretary of Com-  
14 merce and the United States Trade Representative shall—

15 (1) establish a High Technology Industry Adviso-  
16 ry Committee comprised of representatives of interest-  
17 ed high technology industries; and

18 (2) fully consult with this Committee with respect  
19 to actions under this Act relating to—

20 (A) the preparation of negotiating positions,

21 (B) the conclusion of any agreement,

22 (C) the imposition of any restriction, and

23 (D) the monitoring of the results of any such  
24 agreement or restriction.

1 The provisions of section 135(f) of the Trade Act of 1974  
2 shall apply to the Committee.

3 SEC. 7. DEFINITIONS.

4 (a) OPENNESS OF FOREIGN MARKETS.—For the pur-  
5 pose of this Act, openness of international trade and invest-  
6 ment shall be measured by reference to—

7 (1) the existence of structural barriers to United  
8 States trade and investment;

9 (2) structural advantages enjoyed by foreign com-  
10 panies by virtue of an absence of fully competitive  
11 market conditions in their home markets;

12 (3) the extent to which national treatment is af-  
13 farded United States investments to produce and sell  
14 high technology products and services for sale in the  
15 local market of major developed country; and

16 (4) such other factors as the United States Trade  
17 Representative and the Secretary of Commerce shall  
18 prescribe.

19 (b) NATIONAL TREATMENT.—The term “national  
20 treatment” shall include, but not be limited to, treatment not  
21 less favorable than that accorded to any national with respect  
22 to—

23 (1) the freedom of establishment of a market;

24 (2) taxation and financial incentives;

1           (3) nonstrategic Government purchasing and  
2 public contracts; and

3           (4) internal regulations and practices.

4           (c) KEY COUNTRY, ETC.—For the purpose of this  
5 Act—

6           (1) the term “key country” means Japan, the Eu-  
7 ropean Economic Community, Canada, and any other  
8 foreign country (including any newly industrialized  
9 country) designated by the President as a key country  
10 for any purpose of this Act; and

11           (2) the term “newly industrialized country” means  
12 Korea, Taiwan, Malaysia, Brazil, Argentina, Hong  
13 Kong, Singapore, Spain, Mexico, and Israel, and any  
14 other foreign country designated by the President.

15 SEC. 8. AMENDMENTS TO OTHER LAWS.

16           (a) Subsection (b)(2) of section 301 of the Trade Act of  
17 1974 (19 U.S.C. 2411(a)) is amended by adding the words  
18 “or foreign direct investments” after “services”.

19           (b) Subsection 301(d)(1) is amended—

20           (1) by deleting the period; and

21           (2) by adding the phrase “and direct investment  
22 abroad by citizens or nationals of the United States.”

23           (c) Subsection 304(b) is amended—

24           (1) by deleting the word “or” the first time it ap-  
25 pears, and replacing it with a comma; and

- 1 (2) by inserting the words "or direct investment"
- 2 after the word "service".

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