

105TH CONGRESS
1ST SESSION

H. R. 35

To provide a more effective remedy for inadequate trade benefits extended to the United States by other countries and for restrictions on free emigration imposed by other countries.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Mr. BEREUTER introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To provide a more effective remedy for inadequate trade benefits extended to the United States by other countries and for restrictions on free emigration imposed by other countries.

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 “Fair Trade Opportuni-
5 ties Act”.

6 **SEC. 2. STATEMENT OF PURPOSE.**

7 It is the purpose of this Act to enable the President
8 to—

1 (1) remedy the actions or policies of countries
2 that do not accord adequate trade benefits to the
3 United States, including substantially equal competi-
4 tive opportunities for the commerce of the United
5 States;

6 (2) negotiate more equitable tariff and other
7 trade benefits for the people of the United States;

8 (3) sanction nonmarket economy countries that
9 deny or unduly restrict the right or opportunity of
10 their citizens to emigrate; and

11 (4) adjust and simplify the trade laws of the
12 United States to better respond to the realities of a
13 post-Cold War world.

14 **SEC. 3. REPEAL OF JACKSON-VANIK.**

15 (a) TITLE IV OF TRADE ACT OF 1974.—Title IV of
16 the Trade Act of 1974 (19 U.S.C. 2431 and following),
17 and the items relating to title IV in the table of contents
18 of that Act, are repealed.

19 (b) HARMONIZED TARIFF SCHEDULE OF THE
20 UNITED STATES.—

21 General Note 3 of the Harmonized Tariff Schedule
22 of the United States is amended—

23 (1) in the matter that precedes subdivision

24 (a)—

1 (A) by striking “columns” and inserting
2 “column”; and

3 (B) by striking “and 2”; and

4 (2) by striking subdivision (b).

5 (c) EFFECTIVE DATE.—The provisions of subsection
6 (a) and the amendments made by subsection (b) apply to
7 articles entered, or withdrawn from warehouse for con-
8 sumption, on or after the 15th day after the date of the
9 enactment of this Act.

10 **SEC. 4. OUTSTANDING TRADE AGREEMENTS.**

11 (a) IN GENERAL.—Any trade agreement that—

12 (1) was entered into by the United States under
13 title IV of the Trade Act of 1974 (as such title is
14 in effect on the day before the 15th day after the
15 date of the enactment of this Act), and

16 (2) is in effect on the day before such 15th day,
17 shall remain in effect until such agreement expires
18 or is terminated or otherwise suspended.

19 (b) OTHER AGREEMENTS.—Nothing in this Act shall
20 be deemed to alter, amend, or otherwise affect the terms
21 of any trade agreement entered into by the United States
22 pursuant to provisions other than such title IV of the
23 Trade Act of 1974.

24 **SEC. 5. OTHER AUTHORITIES NOT AFFECTED.**

25 Nothing in this Act shall affect—

1 (1) the authority of the United States Trade
2 Representative or the President to take action under
3 section 301 of the Trade Act of 1974; or

4 (2) the authorities of the President under other
5 provisions of law to increase duties on articles from
6 other countries, or to prohibit or impose other re-
7 strictions on imports of articles from other coun-
8 tries, including section 111(c) of the Uruguay
9 Round Agreements Act (19 U.S.C. 3521(c)), section
10 5(b) of the Trading with the Enemy Act (50 U.S.C.
11 App. 5(b)), section 203 of the International Emer-
12 gency Economic Powers Act (50 U.S.C. 1702), and
13 sections 504(a) (22 U.S.C. 2349aa–8(a)) and 505(a)
14 (22 U.S.C. 2349aa–9(a)) of the International Secu-
15 rity and Development Cooperation Act of 1985.

16 **SEC. 6. SNAP-BACK MECHANISM FOR NON-WTO MEMBERS.**

17 (a) DETERMINATION WITH RESPECT TO NON-WTO
18 MEMBERS.—The President shall, after consulting with the
19 appropriate congressional committees, determine whether
20 or not each foreign country that is not a WTO member
21 is according adequate trade benefits to the United States,
22 including substantially equal competitive opportunities for
23 the commerce of the United States. The President shall
24 submit to the appropriate congressional committees, not
25 later than 180 days after the date of the enactment of

1 this Act, a report setting forth his determination with re-
2 spect to each foreign country that is not a WTO member,
3 together with the rationale for each determination.

4 (b) TARIFF INCREASE.—

5 (1) IMPOSITION OF INCREASE.—If the Presi-
6 dent determines under subsection (a) that a foreign
7 country is not according adequate trade benefits to
8 the United States, then the President shall proclaim,
9 within 180 days after the date of that determina-
10 tion, an increase in the rate of duty with respect to
11 one or more products of that country to not more
12 than the column 1 rate of duty under the Har-
13 monized Tariff Schedule of the United States that
14 applied to the article or articles on December 31,
15 1994.

16 (2) TERMINATION OF INCREASE.—The Presi-
17 dent shall terminate any increase in the rate of duty
18 imposed under paragraph (1) with respect to a coun-
19 try on the earlier of—

20 (A) the date the country becomes a WTO
21 member; or

22 (B) the date on which the President pro-
23 claims that the country is according adequate
24 trade benefits to the United States, including

1 substantially equal competitive opportunities for
2 the commerce of the United States.

3 (3) MODIFICATION OF TARIFF.—The President
4 may modify any increase in the rate of duty imposed
5 under paragraph (1) if he notifies the appropriate
6 congressional committees of the modification and the
7 reasons therefor, except that—

8 (A) the modification may not result in a
9 rate of duty more than that permitted under
10 paragraph (1); and

11 (B) the authority of this paragraph may
12 not be used to terminate an increase in the rate
13 of duty imposed under paragraph (1).

14 (c) RATE OF DUTY IN ABSENCE OF COMMERCIAL
15 AGREEMENT.—In the case of a country that is not a WTO
16 member and is not a party to a commercial agreement
17 with the United States that substantially meets the re-
18 quirements of section 405 of the Trade Act of 1974 (as
19 in effect on the day before the 15th day after the date
20 of the enactment of this Act), other than the requirement
21 that the agreement be limited to a period of not more than
22 3 years, the column 2 rate of duty under the Harmonized
23 Tariff Schedule of the United States shall apply to the
24 products of that country.

25 (d) DEFINITIONS.—For purposes of this section—

1 (1) the term “WTO member” means a state, or
2 separate customs territory (within the meaning of
3 Article XII of the WTO Agreement), with respect to
4 which the United States applies the WTO Agree-
5 ment; and

6 (2) the term “WTO Agreement” means the
7 Agreement Establishing the World Trade Organiza-
8 tion entered into on April 15, 1994.

9 **SEC. 7. OTHER AUTHORITY TO INCREASE TARIFFS.**

10 (a) **AUTHORITY.**—Notwithstanding any other provi-
11 sion of law, the President is authorized to increase the
12 rate of duty on any product of a nonmarket economy coun-
13 try that is not a WTO member to not more than the col-
14 umn 1 rate of duty under the Harmonized Tariff Schedule
15 of the United States that applied to that product on De-
16 cember 31, 1994, if that country—

17 (1) denies its citizens the right or opportunity
18 to emigrate;

19 (2) imposes more than a nominal tax on emi-
20 gration or on visas or other documents required for
21 emigration, for any purpose or cause whatsoever; or

22 (3) imposes more than a nominal tax, levy, fine,
23 fee, or other charge on any citizen as a consequence
24 of the desire of such citizen to emigrate to the coun-
25 try of his or her choice.

1 **SEC. 8. CONFORMING AMENDMENTS.**

2 (a) TRADE ACT OF 1974.—

3 (1) Section 151 of the Trade Act of 1974 (19
4 U.S.C. 2191) is amended—

5 (A) in subsection (a)(1)—

6 (i) by striking “approval resolutions
7 described in subsection (b)(3), and resolu-
8 tions described in subsections 152(a) and
9 153(a)” and inserting “and resolutions de-
10 scribed in section 152(a)”;

11 (B) in subsection (b), by striking para-
12 graph (3);

13 (C) in subsection (c)—

14 (i) by striking “(c) INTRODUCTION
15 AND REFERRAL.—”;

16 (ii) by moving the remaining text of
17 paragraph (1) 2 ems to the left;

18 (iii) by striking “(1) On the day”
19 and inserting

20 “(c) INTRODUCTION AND REFERRAL.—On the day”;

21 and

22 (iv) by striking paragraph (2);

23 (D) in subsection (d), by striking “or ap-
24 proval resolution”; and

25 (E) in subsections (e), (f), and (g)—

1 (i) by striking “or approval resolu-
2 tion” each place it appears; and

3 (ii) by striking “or resolution” each
4 place it appears.

5 (2) Section 152 of the Trade Act of 1974 (19
6 U.S.C. 2192) is amended—

7 (A) by amending subsection (a) to read as
8 follows:

9 “(a) CONTENTS OF RESOLUTION.—For purposes of
10 this section, the term ‘resolution’ means only a joint reso-
11 lution of the two Houses of the Congress, the matter after
12 the resolving clause of which is as follows: ‘That the Con-
13 gress does not approve the action taken by, or the deter-
14 mination of, the President under section 203 of the Trade
15 Act of 1974 transmitted to the Congress on _____.’,
16 with the blank space being filled with the appropriate
17 date.”; and

18 (B) in subsection (f)—

19 (i) in paragraph (2), by striking “or
20 153(a), whichever is applicable,”; and

21 (ii) in paragraph (3), by striking “or
22 section 153(a)”.

23 (3) Section 153 of the Trade Act of 1974 (19
24 U.S.C. 2193), and the item relating to that section
25 in the table of contents for that Act, are repealed.

1 (4) Section 154 of the Trade Act of 1974 (19
2 U.S.C. 2194) is amended—

3 (A) in subsection (a), by striking “203(b),
4 402(d), or 407(a) or (b)” and inserting “or
5 203(b)”;

6 (B) by striking “sections 203(c),
7 407(c)(2), and 407(c)(3)” and inserting “sec-
8 tion 203(c)”.

9 (b) OTHER PROVISIONS OF LAW.—

10 (1) Section 330(d) of the Tariff Act of 1930
11 (19 U.S.C. 1330(d)) is amended—

12 (A) in paragraph (1), by striking “to de-
13 termine—

14 “(A) under”

15 and all that follows through “and the commis-
16 sioners” and inserting “to determine, under
17 section 202 of the Trade Act of 1974, whether
18 increased imports of an article are a substantial
19 cause of serious injury, or the threat thereof, as
20 described in subsection (b)(1) of that section
21 (hereafter in this subsection referred to as ‘seri-
22 ous injury’), and the commissioners”;

23 (B) in paragraph (2)—

24 (i) by striking “or 406”;

1 (ii) by striking “or market disruption
2 exists, respectively”; and

3 (iii) by striking “or the finding under
4 section 406(a)(3) of such Act, as the case
5 may be”.

6 (2) Section 1102(b)(1) of the Trade Agree-
7 ments Act of 1979 (19 U.S.C. 2581(b)(1)) is
8 amended by striking “301, or 406” and “2411, or
9 2436” and inserting “or 301” and “or 2411”, re-
10 spectively.

11 (3) Section 2(c)(11) of the Support for East
12 European Democracy (SEED) Act of 1989 (22
13 U.S.C. 5401(c)(11)) is amended to read as follows:

14 “(11) MOST-FAVORED-NATION TRADE STA-
15 TUS.—The granting of nondiscriminatory treatment
16 (most-favored-nation treatment) to the products of
17 an East European country.”.

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